

2018 Regular Session

HOUSE BILL NO. 398

BY REPRESENTATIVE JAMES

CRIMINAL/PROCEDURE: Provides for exemption of expungement fees in certain circumstances

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 983(F)(5) and to enact Code of
3 Criminal Procedure Article 983(F)(6), relative to expungement of arrest records in
4 misdemeanor and felony cases; to provide for an exemption of fees in certain
5 expungement cases; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 983(F)(5) is hereby amended and
8 reenacted and Code of Criminal Procedure Article 983(F)(6) is hereby enacted to read as
9 follows:

10 Art. 983. Costs of expungement of a record; fees; collection; exemptions;
11 disbursements

12 * * *

13 F. An applicant for the expungement of a record shall not be required to pay
14 any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and
15 Information, sheriff, the district attorney, or any other agency to obtain or execute
16 an order of a court of competent jurisdiction to expunge the arrest from the
17 individual's arrest record if a certification obtained from the district attorney is
18 presented to the clerk of court which verifies that the applicant has no felony
19 convictions and no pending felony charges under a bill of information or indictment
20 and at least one of the following applies:

21 * * *

1 (5) Concerning the arrest record which the applicant seeks to expunge, the
2 applicant was determined by the district attorney to be a victim of a violation of R.S.
3 ~~14:67.3 (unauthorized use of "access card")~~, a violation of R.S. 14:67.16 (identity
4 theft), a violation of R.S. 14:70.4 (access device fraud), or a violation of any other
5 crime which involves the unlawful use of the identity or personal information of the
6 applicant.

7 (6) The applicant possesses an industry-based certificate or a postsecondary
8 education certificate, associate degree, or baccalaureate degree.

9 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 398 Original

2018 Regular Session

James

Abstract: Exempts the payment of expungement fees when the applicant possesses an industry-based certificate or a postsecondary education certificate, associate degree, or baccalaureate degree.

Present law provides that an applicant for expungement does not have to pay any fees for the expungement if the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

- (1) The applicant was acquitted, after trial, of all charges derived from the arrest, including any lesser and included offense.
- (2) The district attorney consents, and the case against the applicant was dismissed or the district attorney declined to prosecute the case prior to the time limitations provided for in present law, and the applicant did not participate in a pretrial diversion program.
- (3) The applicant was arrested and was not prosecuted within the time limitations provided for in present law and did not participate in a pretrial diversion program.
- (4) The applicant was determined to be factually innocent and entitled to compensation for a wrongful conviction.
- (5) The applicant was determined to be a victim of unauthorized use of an "access card", identity theft, access device fraud, or a violation of any other crime which involves the unlawful use of the identity or personal information of the applicant.

Proposed law removes the reference of unauthorized use of an "access card" since this crime was repealed by Act No. 281 of the 2017 Regular Session.

Proposed law retains present law and adds an additional circumstance for the exemption of expungement fees when the applicant possesses an industry-based certificate or a postsecondary education certificate, associate degree, or baccalaureate degree.

(Amends C.Cr.P. Art. 983(F)(5); Adds C.Cr.P. Art. 983(F)(6))