

BILL ANALYSIS

S.B. 1224
By: Huffman
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A person arrested for the commission of either a felony or misdemeanor and later acquitted is entitled to have their criminal records expunged if certain conditions are met. Felonies are tried in district courts and misdemeanors are tried in county courts; however, only district courts are authorized to grant expunctions.

Under current law, a person charged with a felony in district court and then acquitted is permitted to seek an expunction in that court within 30 days of an acquittal, and no filing fees or costs are assessed. On the other hand, a person accused of a misdemeanor in a county court is not permitted to seek an expunction in the trial court; instead, the person is required to file a petition for expunction in a district court, where by law a filing fee and costs are assessed because it is a new proceeding. In other words, a person acquitted of a misdemeanor pays fees and costs for an expunction, while a person acquitted of a felony does not.

S.B. 1224 amends current law relating to a waiver of fees imposed for certain expunctions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Article 102.006, Code of Criminal Procedure, as follows:

Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) Creates this subsection from existing text. Creates an exception under Subsection (b).

(b) Requires that the fees under Subsection (a) (relating to requiring a petitioner seeking expunction of a criminal record to pay certain fees) be waived if the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, other than an acquittal for an offense described by Article 55.01(c) (relating to prohibiting expunction of records for certain persons) and the petition for expunction is filed not later than the 30th day after the date of the acquittal.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.