

SUBJECT: Waiving fees for expunctions of misdemeanors in the case of acquittals

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Gallego, Christian, Fletcher, Kent, Miklos, Moody, Pierson, Vaught, Vo

0 nays

2 absent — Hodge, Riddle

WITNESSES: For — Farrah Martinez, Director of Legislative Affairs Harris County District Clerk; (*Registered, but did not testify:* Amanda Marzullo, Texas Fair Defense Project; Andrea Marsh, Texas Fair Defense Project; Ballard C. Shapleigh, Jaime Esparza District Attorney, 34th Judicial District; Sheri Woodfin, County and District Clerk Association)

Against — None

BACKGROUND: Code of Criminal Procedure, Art. 102.006 authorizes the fees and postage costs that must be paid by persons seeking to have their criminal records expunged.

DIGEST: CSHB 2864 would require that the fees paid by persons seeking to have their records expunged be waived if the expunction related to an arrest for an offense for which the person was acquitted and the request for the expunction was filed within 30 days of the acquittal.

The bill would take effect September 1, 2009, and would apply only to requests for expunction filed on or after that date.

SUPPORTERS SAY: CSHB 2824 is necessary to close a loophole in current law that allows in defendants acquitted of felony criminal offenses being able to have their records expunged at no cost but requires person acquitted of misdemeanors having to pay a fee for an expunction. This results in unfair and unequal treatment of those accused of misdemeanor crimes.

Currently, criminal defendants acquitted of felonies turn to the trial courts in which they were charged to seek expunctions of their records, which they can be granted at no cost. However, persons charged with misdemeanors must go to a civil district court, even though they were tried in a county court, to seek an expunction. When this happens, they are charged a filing fee of about \$200 by the civil district court because it is a new filing in that court. CSHB 2824 would remedy this situation and treat equally defendants charged with misdemeanors and felonies who were acquitted by stating that fees for those seeking expunction within 30 days of their acquittal would be waived in all cases.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The committee substitute expanded the original bill so that it also included waiving the postage costs that can be charged to person seeking expunctions.

The companion bill, SB 1224 by Huffman, passed the Senate by 31-0 on April 30 on the Local and Uncontested Calendar and has been referred to the Criminal Jurisprudence Committee.