

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB24-1133 be amended as follows:

1 Amend printed bill, page 7, strike line 7 and substitute "(1)(i) and (2)(b);
2 and **repeal** (1)(f.5) as follows:".

3 Page 7, strike lines 9 through 20 and substitute:

4 **"records - processing fee. (1) Sealing of conviction records.**
5 (f.5) ~~(I) Notwithstanding any provision of this part 7 to the contrary, a~~
6 ~~motion filed for the sealing of conviction records for an offense that was~~
7 ~~unlawful at the time of conviction, but is no longer unlawful pursuant to~~
8 ~~section 18-18-434, may be filed at any time. The court shall order the~~
9 ~~records sealed unless the district attorney objects pursuant to subsection~~
10 ~~(1)(f.5)(H) of this section.~~

11 ~~(H) If a motion is filed for the sealing of an offense described in~~
12 ~~this subsection (1)(f.5), the defendant shall provide notice of the motion~~
13 ~~to the district attorney, who may object. The district attorney shall~~
14 ~~determine whether to object to the motion based on whether the~~
15 ~~underlying conviction for an offense is no longer unlawful pursuant to~~
16 ~~section 18-18-434. The district attorney shall determine whether to object~~
17 ~~and provide notice to the court within forty-two days of receipt of the~~
18 ~~motion. If the district attorney objects to the motion, the court shall set the~~
19 ~~matter for hearing and the burden is on the defendant to show by a~~
20 ~~preponderance of the evidence that the underlying factual basis of the~~
21 ~~conviction sought to be sealed is no longer unlawful pursuant to section~~
22 ~~18-18-434.~~

23 ~~(HH) (A) A defendant who files a motion pursuant to this~~
24 ~~subsection (1)(f.5) must not be charged fees or costs.~~

25 ~~(B) Notwithstanding subsection (1)(c) of this section, a defendant~~
26 ~~who files a motion pursuant to this subsection (1)(f.5) is not required to~~
27 ~~submit a verified copy of the defendant's criminal history with a filed~~
28 ~~motion.~~

29 ~~(C) Section 24-72-703 (2)(a)(V) does not apply to conviction~~
30 ~~records sealed pursuant to this subsection (1)(f.5).~~

31 (i) The court shall determine eligibility of a drug offense
32 committed before October 1, 2013, by the classification of the offense at
33 the time of considering the record sealing, INCLUDING, BUT NOT LIMITED
34 TO, SECTION 18-18-106 (8)(a)(II)(B), AS IT EXISTED PRIOR TO JULY 1,
35 1992; OR SECTION 18-18-406 (8)(a)(II)(B), AS IT EXISTED PRIOR TO
36 AUGUST 11, 2010; OR SECTION 18-18-406 (6)(a)(II)(B), AS IT EXISTED
37 PRIOR TO OCTOBER 1, 2013.

38 (2) (b) Notwithstanding the provisions of this section, a
39 misdemeanor".

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