

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

SB23-290 be amended as follows:

1 Amend reengrossed bill, page 85, strike lines 12 through 27 and
2 substitute:

3 "(f.5) (I) NOTWITHSTANDING ANY PROVISION OF THIS PART 7 TO THE
4 CONTRARY, A MOTION FILED FOR THE SEALING OF CONVICTION RECORDS
5 FOR AN OFFENSE THAT WAS UNLAWFUL AT THE TIME OF CONVICTION, BUT
6 IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434, MAY BE FILED
7 AT ANY TIME. THE COURT SHALL ORDER THE RECORDS SEALED UNLESS THE
8 DISTRICT ATTORNEY OBJECTS PURSUANT TO SUBSECTION (1)(f.5)(II) OF
9 THIS SECTION.

10 (II) IF A MOTION IS FILED FOR THE SEALING OF AN OFFENSE
11 DESCRIBED IN THIS SUBSECTION (1)(f.5), THE DEFENDANT SHALL PROVIDE
12 NOTICE OF THE MOTION TO THE DISTRICT ATTORNEY, WHO MAY OBJECT.
13 THE DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT TO THE
14 MOTION BASED ON WHETHER THE UNDERLYING CONVICTION FOR AN
15 OFFENSE IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434. THE
16 DISTRICT ATTORNEY SHALL DETERMINE WHETHER TO OBJECT AND PROVIDE
17 NOTICE TO THE COURT WITHIN FORTY-TWO DAYS OF RECEIPT OF THE
18 MOTION. IF THE DISTRICT ATTORNEY OBJECTS TO THE MOTION, THE COURT
19 SHALL SET THE MATTER FOR HEARING AND THE BURDEN IS ON THE
20 DEFENDANT TO SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT THE
21 UNDERLYING FACTUAL BASIS OF THE CONVICTION SOUGHT TO BE SEALED
22 IS NO LONGER UNLAWFUL PURSUANT TO SECTION 18-18-434.

23 (III) (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
26 DEFENDANT WHO FILES A MOTION PURSUANT TO THIS SUBSECTION (1)(f.5)
27 IS NOT REQUIRED TO SUBMIT A VERIFIED COPY OF THE DEFENDANT'S
28 CRIMINAL HISTORY WITH A FILED 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 Page 86, strike lines 1 through 12.

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