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AB-1803 Court fees: ability to pay. (2021-2022)

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Date Published: 09/26/2022 02:00 PM

Assembly Bill No. 1803

CHAPTER 494

An act to add Sections 1203.426 and 1203.427 to the Penal Code, relating to court fees.

[Approved by Governor September 23, 2022. Filed with Secretary of State September 23, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1803, Jones-Sawyer. Court fees: ability to pay.

Existing law allows certain persons convicted of a criminal offense who have successfully completed the term of probation, or term of imprisonment and supervision, to petition the court to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty or, if convicted after a plea of not guilty, petition the court to set aside the verdict of guilty and dismiss the accusatory pleading, except as specified, and in the case of certain convictions that occurred when the person was under 18 years of age, to petition the court to seal the records of arrest and conviction. Under existing law, a person granted relief pursuant to these provisions is released from all penalties and disabilities resulting from the offense, except as specified. Existing law authorizes the court to impose specified fees and costs on a person who petitions for a change of plea or setting aside of a verdict pursuant to these provisions. Existing law requires the court to grant a waiver of court fees and costs to an applicant at any stage of the proceedings at both the appellate and trial court levels if the applicant meets specified standards of eligibility and application requirements, including a person who is receiving certain public benefits, such as Supplemental Security Income or Medi-Cal, or who has a monthly income of 125% or less of the current poverty guidelines, as specified.

This bill would exempt a person who meets specified criteria from being obligated to pay these fees, as specified. The bill would prohibit a court from denying relief under these provisions to an otherwise qualified person, and who meets the criteria for a waiver of court fees and costs, solely on the basis that the person has not satisfied their restitution obligations.

The bill would make certain of its provisions inoperative if Senate Bill 1106 is enacted and becomes operative.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1203.426 is added to the Penal Code, immediately following Section 1203.425, to read:

1203.426. A person seeking relief pursuant to Sections 1203.4, 1203.41, 1203.42, and 1203.45, and who meets the criteria set forth in Section 68632 of the Government Code shall not be required to reimburse the court, the county, or any city for the actual costs of services rendered, whether or not the petition is granted and records are sealed or expunged.

SEC. 2. Section 1203.427 is added to the Penal Code, to read:

1203.427. Notwithstanding any other law, if a person otherwise qualifies to have their records sealed or expunged pursuant to this chapter, relief under this chapter shall not be denied to a person who meets the criteria set forth in Section 68632 of the Government Code and whose probation was conditioned on making victim restitution, solely on the basis that the person has not satisfied their restitution obligation.

SEC. 3. Section 2 of this bill shall not become operative if Senate Bill 1106 of the 2021–22 Regular Session is enacted and becomes operative.