

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0592H.02I  
 Bill No.: HB 352  
 Subject: Crimes and Punishment; Courts; Highway Patrol; Department of Public Safety;  
 Department of Revenue; Department of Corrections; Office of Administration  
 Type: Original  
 Date: March 27, 2023

Bill Summary: This proposal establishes provisions relating to expungement.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	\$0	Could exceed (\$6,825,910)	Greater than (\$10,374,185)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>Could exceed (\$6,825,910)</b>	<b>Greater than (\$10,374,185)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Missouri Expungement Fund	\$0	\$0*	\$0*
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Transfer-In and expenses net to zero.

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
Missouri Expungement Fund*	0 FTE	Less than 27 FTE	Less than 27 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>0 FTE</b>	<b>Less than 27 FTE</b>	<b>Less than 27 FTE</b>

\*Does not include temporary positions.

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of The three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>(Unknown)</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### §§610.141, 610.142, 610.143, 610.144, and 610.146 - Expungement

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** state there are approximately 10,750,000 conviction records in the Traffic Arrest System/Driving While Intoxicated Tracking System (TAS/DWITS) that could possibly meet the criteria of this proposed legislation. This does not include driving while intoxicated-related offenses as these are excluded from expungement pursuant to Section 610.140. Once the court expungement order is received by the MHP, Patrol Records Division personnel would be required to make certain the individual meets the criteria for expungement noted in this legislation. There are not enough existing Patrol personnel to handle the potential increased volume of expungement requests resulting from this proposed legislation. The Patrol is factoring a range as far the number of personnel needed in order to provide an idea of what the costs may be. As the need for this requirement would be heavy in the beginning of the process, the Patrol is factoring in only part time professionals. In addition, there is an average of 300,000 court dispositions with the offense class of misdemeanor, infraction, or local ordinance and a finding of guilty or guilty-SIS added to TAS/DWITS each year. For these additional entries, the Patrol is requesting to add full-time positions.

The Patrol calculates that one FTE can process approximately 3,728 expungements per year. Not knowing how many expungements the Patrol would receive, a range of between 144 and 432 FTE (10,750,000 conviction records \* 5% = 537,500 records expunged/3,728 expungements/year/FTE = 144 FTE; 10,750,000 conviction records \* 15% = 1,612,500 records expunged/3,728 expungements/year/FTE = 432 FTE) has been provided regarding the number of temporary personnel to be hired. The pay rate for a temporary professional is \$15 per hour. In addition, the Patrol estimates the need for 16 to 24 FTE to resolve the 300,000 court dispositions added to TAS/DWITS each year. Included within the costs would be leased space, and expense and equipment such as office equipment and computers. Patrol expenses for this proposed legislation would initiate in FY25.

Without space available for the additional personnel needed to fulfill the requirements of this legislation, the Patrol would need leased space for the additional employees. A cost range is based on existing leased space in Cole County. In looking at existing leased space, the range would be from \$9.11/square foot to \$11.50/square foot. For 160 employees, approximately 34,000 square feet would be needed (160 employees x 212.5 square feet) and for 456 employees, approximately 96,900 square feet would be needed (456 employees x 212.5 square feet). Therefore, total estimated annual leasing costs in Cole County for 160 FTE would be between \$309,740 and \$391,000. The estimated annual leasing costs for 456 FTE would be between \$882,759 and \$1,114,350. An additional cost of approximately 30% would be need for janitorial/other services.

The MHP Criminal Justice Information Services (CJIS) Division states to create a system that accounts for all of the variables needed to “expunge” a record, it would cost an estimated \$500,000 to \$1,000,000. This estimated amount is based on current contracts and other quotes for related systems.

**Oversight** notes the provisions of this bill state the MHP shall create and maintain an electronically accessible record of each conviction recorded and maintained in the Central Repository that was expunged under this section. Beginning August 28, 2025, on a monthly basis, the Office of the State Courts Administrator (OSCA) is to identify and transmit eligible expungements to the Central Repository within 30 days of the record becoming eligible for expungement. Records that are eligible for expungement on or before August 28, 2023, shall be identified and expunged by August 28, 2026. Therefore, for FY2025, Oversight will present 6 months of personnel-associated costs for the MHP for training, leasing, equipment, etc., plus an additional \$500,000 to \$1,000,000 to create a system that accounts for all the variables needed to expunge a record as outlined in this proposal. Oversight assumes the temporary positions would not be provided fringe benefits and the state would only pay Social Security and Medicare benefits of 7.65 percent.

Oversight also notes Section 610.141 states beginning August 28, 2025, all records and files maintained in any administrative or court proceeding in a municipal, associate, or circuit court shall be closed without the filing of a petition. Oversight notes current law (§488.650) requires a \$250 surcharge to be paid for petitions for expungement of criminal records and provides that the judge may waive the surcharge if the petitioner is indigent. The funds for this surcharge go to the General Revenue Fund. As this proposal creates an automatic expungement, there would not be a cost to file a petition for expungement. Therefore, Oversight will reflect an (unknown) loss to the General Revenue Fund.

Officials from the **Office of State Courts Administrator (OSCA)** state there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

**Oversight** notes §610.146 establishes a new fund which consists of moneys appropriated by the General Assembly to the fund or any gifts, bequests, or grants. The Department of Public Safety, the Information Services Division within the Office of Administration and Office of the State Courts Administrator will be able to expend moneys from this fund, upon appropriation, for implementation costs, system upgrades or staffing needs incurred under sections 610.141 to 610.143. For fiscal note purposes, Oversight will reflect the amount of state appropriations for this program as (\$6,825,910 for FY2025 and Greater than \$10,374,185 for FY2026) to the General Revenue Fund. Additionally, Oversight also assumes an unknown income to the Missouri Expungement Fund from gifts, grants, or donations.

For fiscal note purposes, Oversight assumes services provided under this proposal will equal income/appropriations and net to zero.

Officials from the **Department of Corrections (DOC)** state this legislation may cause an increase in workload for Institutional Records Office Staff, as it requires staff to review documents within files to determine which documents need to be redacted and destroyed. Expunging these records for the specified offenses through destruction, redacting or removal (electronic) will result in an increase in workload for the Institutional Records Officers, as they are the custodian of records for their offender files. This could also affect records kept at Probation and Parole Offices.

While the department assumes a \$0 - Unknown impact, there is some concern for tracking previous medical, mental health, substance use treatment, and education records should the offender return to supervision by the department.

If there should be a significant number of additional requests for expungement or a significant expansion in the number of offenses that could be expunged, it could result in additional costs to the DOC.

**Oversight** does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect a \$0 (can absorb) to DOC's (unknown) impact to the General Revenue Fund.

Officials from the **Missouri Lottery Commission (MLC)** assume the proposal will have no fiscal impact on their organization. The MLC assumes fingerprint background checks authorized under §313.220.2 will still have access to closed criminal history information that states, "Notwithstanding the provisions of section 610.120, the commission shall have access to closed criminal history information when fingerprints are submitted." In addition, 610.120.1 states closed records shall be available to agencies authorized by "applicable state law when submitting fingerprints to the central repository."

Officials from the **Office of Administration (OA)** assume the proposal will have no fiscal impact on their organization. OA states from the plain language of this bill, it appears that a state agency obtaining a credit report could be a "user of information". However, the violation identified in section 610.144 for which a penalty could be assessed is only for improperly "reporting" an arrest, indictment or conviction. A state agency using information from a credit agency would not appear to be "reporting" that information. Therefore, OA assumes that there would be no impact from this bill. If OA's interpretation of this provision is incorrect, fiscal impact to the LEF could result.

Officials from the **St. Louis County Police Department** state this legislation would require the expungement of various offenses by 2026. Due to the variety of eligible offenses and requirements, it is difficult to determine an exact cost. The legislation would require additional manpower in the police record room to process the petitions; therefore, the cost is unknown, but significant.

Officials from the **Branson Police Department** state they would likely need to hire at least one (1) Records Clerk just to keep up with the huge amount of expunged records every month.

Officials from the **City of Kansas City** state this legislation could have a small negative fiscal impact on Kansas City in an indeterminate amount due to administrative costs.

**Oversight** notes the estimated fiscal impact for the St. Louis County Police Department, Branson Police Department, and the City of Kansas City; however, Oversight is unable to project a statewide cost. Therefore, the impact to local governments will be presented as (Unknown).

Officials from the **Department of Public Safety - Office of the Director** defer to the **Department of Public Safety - Missouri Highway Patrol** for the potential fiscal impact of this proposal.

Officials from the **Attorney General’s Office**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Social Services**, the **Missouri Department of Transportation**, the **Missouri Office of Prosecution Services**, the **Office of the Governor**, the **City of Springfield**, the **Kansas City Police Department**, the **St. Joseph Police Department**, and the **Phelps County Sheriff’s Department** assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Office of the State Treasurer** did not respond to **Oversight’s** request for fiscal impact for this proposal.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025 (10 Mo.)	FY 2026
<b>GENERAL REVENUE</b>			
<u>Cost – DOC (§610.141) To expunge records p. 5</u>	\$0	\$0	\$0 or (Unknown)
<u>Transfer Out – To the Missouri Expungement Fund p. 4</u>	\$0	Could exceed (\$6,825,910)	Could exceed (\$10,374,185)
<u>Revenue Reduction – (§610.141) Technology-assisted closing of records/ loss of \$250 surcharge p. 4</u>	\$0	\$0	(Unknown)
<b>ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND</b>	<b>\$0</b>	<b>Could exceed (\$6,825,910)</b>	<b>Greater than (\$10,374,185)</b>

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025 (10 Mo.)	FY 2026
<b>MISSOURI EXPUNGEMENT FUND</b>			
<u>Income</u> – Gifts, grants, donations p. 4	\$0	\$0	\$0 to Unknown
<u>Transfer In</u> – from General Revenue p. 4	\$0	\$6,825,910	\$10,374,185
<u>Cost</u> – MHP (§§610.141 to 610.144) p. 3-4			
Personal service (27 Full-time FTE)	\$0	Less than (\$519,184)	Less than (\$1,059,136)
Fringe benefits (Full-time FTE)	\$0	Less than (\$462,334)	Less than (\$943,160)
Equipment and expense (Full-time FTE)	\$0	Less than (\$38,400)	\$0
Personal services (Temps)	\$0	Less than (\$3,304,800)	Less than (\$6,741,792)
Social Security and Medicare for Temps	\$0	Less than (\$252,817)	Less than (\$515,747)
Computer equipment (Temps)	\$0	Less than (\$432,000)	\$0
Equipment and expense (Temps)	\$0	Less than (\$259,200)	\$0
Leased office space with janitorial services	\$0	Less than (\$557,175)	Less than (\$1,114,350)
System development	\$0	(\$500,000 to \$1,000,000)	\$0
<u>Total cost</u> – MHP	\$0	Less than (\$6,825,910)	Less than (\$10,374,185)
FTE Change – MHP*	0 FTE	Less than 27 FTE	Less than 27 FTE
<u>Cost</u> – OSCA (§§610.141 to 610.144) To expunge records p. 4	\$0	\$0 to (Unknown)	\$0 to (Unknown)

<b>ESTIMATED NET EFFECT ON THE MISSOURI EXPUNGEMENT FUND</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
Estimated Net FTE Change on the Missouri Expungement Fund *(Does not include temporary positions.)	0 FTE	Less than 27 FTE	Less than 27 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2024	FY 2025 (10 Mo.)	FY 2026
<b>LOCAL POLITICAL SUBDIVISIONS</b>			
<u>Cost – Local political subdivisions (\$610.144.2) To expunge records p. 5-6</u>	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>(Unknown)</u></b>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

EXPUNGEMENT (Sections 610.141, 610.142, 610.143, 610.144, and 610.146)

This act provides that any offenses, infractions, misdemeanors, or felonies which are eligible for expungement under current law shall be eligible for expungement without petition beginning August 28, 2025, subject to limitations as provided in the act.

A person may be granted expungement for no more than 3 felony offenses, no more than 5 misdemeanor offenses or ordinance violations, and any number of infractions. If a person has more than 3 felonies or 5 misdemeanors, then he or she shall not be eligible for expungement without petition.

Additionally, this act provides that the Office of State Courts Administrator (OSCA) shall send all records of charges and convictions eligible for expungement to the Central Repository beginning August 28, 2025. If 30 days pass without an objection to expungement from the Central Repository, OSCA shall transmit all records to be expunged to the presiding judges of every circuit court within 15 days. The circuit courts shall then issue orders for expungement



within 30 days of receiving the notice to expunge such records, unless the court determines a record is not eligible for expungement without petition. OSCA shall create a digital access portal of all orders of expungement issued pursuant to this act and shall submit an annual report to the judiciary committees of the Senate and House of Representatives which includes information as provided in the act.

Any person who has records eligible for expungement shall be notified by the court or by any probation or parole office of the date when the person's records become eligible for expungement. A person may still petition the court for expungement even if the person is eligible for expungement without petition pursuant to this act.

This act provides that a record of conviction closed pursuant to this act shall be reinstated by the court if the court finds the conviction was improperly expunged.

This act also provides that a credit bureau may report certain criminal records for no longer than 7 years from the date of release or parole and shall not report any records which have been expunged. Any credit bureau in violation of this act shall be liable to the consumer.

Any employer shall be immune from liability for any claim arising out of the misconduct of an individual if the misconduct relates to criminal history that was expunged from the individual's record.

Finally, this act creates the Missouri Expungement Fund which shall be used by OSCA to administer the provisions of this act.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

Attorney General's Office  
Department of Corrections  
Department of Labor and Industrial Relations  
Department of Revenue  
Department of Public Safety  
Department of Social Services  
Office of the Governor  
Missouri Lottery Commission  
Missouri Department of Transportation  
Missouri Office of Prosecution Services  
Office of Administration  
Office of the State Courts Administrator  
Office of the State Treasurer  
City of Kansas City

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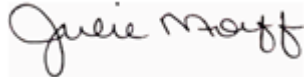
City of Springfield

Kansas City Police Department

St. Joseph Police Department

St. Louis County Police Department


Phelps County Sheriff's Department



Julie Morff

Director

March 27, 2023



Ross Strobe

Assistant Director

March 27, 2023