COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1573H.02I
Bill No.: HB 753
Subject: Crimes and Punishment; Courts
Type: Original
Date: February 24, 2023

Bill Summary: This proposal establishes provisions relating to automatic expungement for certain cases.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	Could exceed ($11,521,057)	Could exceed ($5,660,591)	Could exceed ($5,765,083)
Total Estimated Net Effect on General Revenue	**Could exceed ($11,521,057)**	**Could exceed ($5,660,591)**	**Could exceed ($5,765,083)**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	Less than 24 FTE	Less than 24 FTE	Less than 24 FTE
Total Estimated Net Effect on FTE	**Less than 24 FTE**	**Less than 24 FTE**	**Less than 24 FTE**

*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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL ANALYSIS

ASSUMPTION

§610.147 – Automatic expungements

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. 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 for 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 20,000 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.

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). Therefore, total estimated annual leasing costs in Cole County for 160 FTE would be between $309,740 and $391,000.

Not knowing how many expungements the Patrol would receive, a range of between 161 and 202 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 21 to 24 full-time personnel. Included within the costs would be leased space, and expense and equipment such as office equipment and computers. The Patrol anticipates the costs for the criminal history system upgrades and the leasing of office space to occur starting in FY25. This would allow for the agency to pursue additional funding during the legislative process to cover the needed equipment and payroll costs. Some of the hiring of additional personnel could begin in FY24, pending the availability of funding.

The three upgrades to the criminal history system are outlined below. Each upgrade would be a one-time expense from General Revenue, with anticipated ongoing maintenance of $15,000 per year for each of the upgrades.

Criminal History System Upgrade (#1) - This upgrade would facilitate the transfer of criminal justice information (CJI) between the Missouri State Highway Patrol and each prosecuting attorneys' office in the state. This secure database is needed for the transfer of information and with that, there are significant concerns and requirements to protect the data from unauthorized access.

Criminal History System Upgrade (#2) - The Patrol and Office of State Courts Administrator (OSCA) have a mechanism in place to transfer individual criminal history records between systems; however, a new system would need to be built to facilitate the transfer of records on individuals identified as being eligible for expungement to the state courts. OSCA would then need to see that those records are distributed to each individual court.

Criminal History System Upgrade (#3) - A timing mechanism would be required to be built within the Criminal History Record System (CHRS) to determine when three (3) years have passed for a felony offense and one (1) year for a misdemeanor offense.

Each of these systems upgrades is complex and will take at least one year to build, test, and implement. The cost range for each one is an estimate based on work that the Patrol has previously done on the criminal history system.

Oversight notes the provisions of this proposal state the MHP, on a monthly basis, shall identify cases that are clean slate eligible by conducting a search of the criminal history repository records and shall provide a list to every prosecuting agency in the state. Each prosecuting agency has no later than 45 days to object to an automatic expungement and transmit the objection to all parties. After 45 days, the central repository will provide the courts a list of all cases where no parties objected. The court will then provide to all agencies that have criminal records a signed expungement order for all cases approved. Upon receipt of such order, each agency shall close the relevant records. Therefore, Oversight will reflect MHP's estimated impact to the General Revenue Fund.

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 Institutional Records Officers, as they are the custodian of records for 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 **Office of the 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.

Officials from the **Department of Revenue (DOR)** state the proposal modifies the provisions relating to the automatic expungement for certain cases. Generally, the Department of Revenue receives expungements as court orders and then keys these individually to records. With regard to this proposal, most orders would come as a result of the "Abuse and Lose" laws. The Department does not anticipate a significant increase in impact in expungements in this category and believes processing can be absorbed by current staffing. If the increase is more significant than anticipated, additional FTE will be requested through the appropriations process.

The fiscal impact estimated above is based on changes in the current Driver Licensing system environment. The implementation of this legislation will be coordinated with the integration of the Department's Motor Vehicle and Driver Licensing software system approved and passed by the general assembly in 2020 (Senate Bill 176). To avoid duplicative technology development and associated costs to the state, it is recommended a delayed effective date be added to this bill to correlate with the installation of the new system.

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the OA-ITSD costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

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 is 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 for this lost revenue.

Officials from the **City of Springfield** anticipate a negative fiscal impact from this bill. The City will need to hire additional staff to comply with the bill's requirements. Estimating a cost is difficult, but the City believes it would be approximately $400,000 annually.

Oversight notes the estimated fiscal impact to the City of Springfield and is unable to project a statewide cost; therefore, the impact to local governments-political subdivisions will be presented as (Unknown).

Officials from the **Attorney General's Office**, the **Department of Public Safety - Office of the Director**, the **Office of the Governor**, the **Joint Committee on Administrative Rules**, the **Missouri Department of Transportation**, the **Office of the Secretary of State**, the **Missouri Office of Prosecution Services**, the **Office of the State Public Defender**, the **City of Kansas City**, the **City of O'Fallon**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff's Department** assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Branson Police Department** indicate this proposal would have a fiscal impact on their organization. However, Oversight notes they provided no information explaining the potential fiscal impact this proposal would have on their organization. Therefore, for fiscal note purposes, Oversight assumes any fiscal impact incurred by this police department would be absorbable within current funding levels.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for the abovementioned agencies.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, county prosecutors, and local law enforcement were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

FISCAL IMPACT – State Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Cost – MHP (§610.147)			
Personal service (Full-time FTE)	Less than ($922,220)	Less than ($1,128,797)	Less than ($1,151,373)
Fringe benefits (Full-time FTE)	Less than ($821,237)	Less than ($1,005,194)	Less than ($1,025,298)
Equipment and expense (Full-time FTE)	Less than ($38,400)	$0	$0
Personal services (Temps)	Less than ($2,525,000)	Less than ($3,090,600)	Less than ($3,152,412)
Computer equipment (Temps)	Less than ($202,000)	$0	$0
Equipment and expense (Temps)	Less than ($121,200)	$0	$0
Leased office space with janitorial services	Less than ($391,000)	Less than ($391,000)	Less than ($391,000)

FISCAL IMPACT – State Government (continued)	FY 2024 (10 Mo.)	FY 2025	FY 2026
Criminal History System upgrade #1	($500,000 to $1,500,000)	($15,000)	($15,000)
Criminal History System upgrade #2	($1,500,000 to $2,500,000)	($15,000)	($15,000)
Criminal History System upgrade #3	($1,500,000 to $2,500,000)	($15,000)	($15,000)
Total cost - MHP	Less than ($11,521,057)	Less than ($5,660,591)	Less than ($5,765,083)
FTE Change – MHP*	Less than 24 FTE	Less than 24 FTE	Less than 24 FTE
Cost – DOC & OSCA (§610.147) To expunge records	$0 or (Unknown)	$0 or (Unknown)	$0 or (Unknown)
Revenue Reduction - (§488.650) Loss of $250 surcharge on expungements	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	**Could exceed ($11,521,057)**	**Could exceed ($5,660,591)**	**Could exceed ($5,765,083)**
Estimated Net FTE Change on the General Revenue Fund *(Does not include temporary positions.)	Less than 24 FTE	Less than 24 FTE	Less than 24 FTE

FISCAL IMPACT – Local Government	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
Cost - Local political subdivisions (§610.147) To expunge records	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill creates a process for automatic expungement of clean slate eligible cases. A "clean slate eligible case" is defined in the bill as a case where each offense, violation, or infraction is not an offense ineligible for expungement under Section 610.140, RSMo, and the offense meets the requirements of the bill. The process in this bill does not affect a person's ability to petition the court for expungement of his or her record. Subject to other requirements, a person will become eligible for expungement when three years have passed since final disposition if the offense is a felony or when one year has passed since final disposition if the offense is a misdemeanor, municipal offense, or infraction.

On a monthly basis, the State Highway Patrol Central Repository will identify clean slate eligible cases and will provide a list of those cases to every prosecuting agency in the state. The prosecuting agency will have up to 45 days to object to the automatic expungement. Once a year, the Central Repository will submit a report to the General Assembly with a list of all cases where a record was not expunged under this bill. The Highway Patrol will retain a nonpublic record of the order expunging a conviction, or any other notification regarding a conviction that was automatically expunged under this bill, and of the record of arrest, fingerprints, conviction and sentence of the person in the case to which the order applies. The nonpublic records will be accessible under limited circumstances.

The bill provides circumstances under which convictions expunged under this process may be reinstated.

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 Revenue
Department of Public Safety
Office of the Governor
Joint Committee on Administrative Rules
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of the State Courts Administrator

DD:LR:OD

Office of the Secretary of State
Office of the State Public Defender
City of Kansas City
City of O'Fallon
City of Springfield
Branson Police Department
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Phelps County Sheriff's Department

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