

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4347H.01I
Bill No.: HB 2555
Subject: Crimes and Punishment; Courts; Highway Patrol; Department of Public Safety;
Department of Revenue; Department of Corrections; Office of Administration
Type: Original
Date: March 21, 2024

Bill Summary: This proposal establishes provisions relating to expungement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
General Revenue	\$0	(Up to \$38,801,767)	(Up to \$63,886,295)	(Could exceed \$76,135,187)
Total Estimated Net Effect on General Revenue	\$0	(Up to \$38,801,767)	(Up to \$63,886,295)	(Could exceed \$76,135,187)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Missouri Expungement	\$0*	\$0*	\$0*	\$0*
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

* Transfers-in, gifts, grants, bequests and expenses net to \$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Missouri Expungement Fund	0 FTE	Up to 393 FTE	Up to 788 FTE	Up to 788 FTE
Total Estimated Net Effect on FTE	0 FTE	Up to 393 FTE	Up to 788 FTE	Up to 788 FTE

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 2025	FY 2026	FY 2027	Fully Implemented (FY 2028)
Local Government	\$0	\$0	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

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

Officials from the **Department of Public Safety (DPS) - Missouri Highway Patrol (MHP)** state currently, 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 §610.140. These expungements are processed by the Patrol Records Division. In addition, the MHP anticipates receiving over 380,000 Criminal History Records System expungement requests per year. These requests are processed within the Patrol by the Criminal Justice Information Services (CJIS) Division. Once the court expungement order is received by the MHP, the Patrol Records Division and the CJIS Division personnel would be required to make certain the individual(s) 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 for the number of personnel needed in order to provide an idea of what the costs may be. 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.

This legislation has a proposed effective date of August 28, 2026. The Patrol anticipates the need to begin the design and bid process for the technical interface with the courts in FY25. The Patrol will also begin hiring and training personnel in FY25 in an effort to be prepared for the implementation as required in §§610.141.2(1) and 610.141.3(2). Included within the costs would be leased space, a computer system software upgrade, and expense and equipment such as office equipment and computers.

The MHP calculates that one (1) Patrol Records Division (PRD) FTE can process approximately 3,728 expungements per year. Considering this bill automates the expungement process and excludes the filing of a petition for expungement, a 15% or more expungement of records is realistic. With the current 10,750,000 records possibly eligible for expungement, the following percentages of persons actually receiving an expungement will directly relate to the number of Patrol Records Division FTEs required:

$$\begin{aligned} 1\% &= 10,750,000 \times .01 = 107,500 / 3,728 = 29 \text{ FTEs} \\ 5\% &= 10,750,000 \times .05 = 537,500 / 3,728 = 144 \text{ FTEs} \\ 10\% &= 10,750,000 \times .10 = 1,075,000 / 3,728 = 288 \text{ FTEs} \\ 15\% &= 10,750,000 \times .15 = 1,612,500 / 3,728 = 432 \text{ FTEs} \end{aligned}$$

One (1) Criminal Justice Information Services Division (CJIS) FTE can process approximately 1,920 expungement orders per month. Based upon recent data, the CJIS Division estimates receiving 32,000 expungement orders per month ($32,000/1,920 = 16.67$ FTE). With this data, the MHP anticipates needing seventeen (17) additional FTE within the CJIS Division Technicians to process the potential expungements along with 2 CJIS Supervisors and 1 Program Manager for a total of 20 FTE.

The **MHP** states without space available for the additional personnel needed to fulfill the requirements of this legislation, the MHP 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 175 employees, approximately 37,188 square feet would be needed (175 employees x 212.5 square feet) and for 501 employees, approximately 106,463 square feet would be needed (501 employees x 212.5 square feet). Therefore, the total estimated annual leasing costs in Cole County for 175 FTE would be between \$338,783 and \$427,662. The estimated annual leasing costs for 501 FTE would be between \$969,878 and \$1,224,325.

Oversight notes the MHP has modified its response from similar legislation in prior years (HB 352, 2022). Rather than hiring temporary staff, the MHP believes the FTEs needed to fulfill the requirements of this legislation will be permanent, full-time staff. Oversight notes the MHP assumes it could hire up to 501 FTE in total (432 PRD FTE + 43 PRD Supervisor FTE + 17 CJIS FTE + 9 program manager/supervisor/assistant director and maintenance FTE = 501 FTE) and will range associated costs as “up to” the estimates provided. However, Oversight assumes the MHP would not hire up to 501 FTE in the first year of the proposal. Oversight assumes, instead, that the MHP will hire up to 250 FTE in FY2026 to train and begin the process of identifying records eligible for expungement on/before August 28, 2024 and further assumes MHP will hire up to 251 FTE in FY2027. Oversight also assumes leased space will be needed as well as equipment and expense and will present approximately half of the costs estimated by MHP for each year.

MHP officials state the MHP CJIS Division does not have a technical interface with the courts for this requirement, therefore, the CJIS Division estimates the technical interface will cost \$500,000 to \$1,000,000 based on other criminal history related projects with the current criminal history vendor. A project of this magnitude would take approximately 3 years to complete which would go well beyond the August 28, 2027, requirement.

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, 2027, on a monthly basis, the Office of the State Courts Administrator (OSCA) is to identify and transmit eligible expungements to the Central Repository and every prosecuting agency all clean slate eligible offense records within 30 days of the record becoming eligible for expungement. Records that are eligible for expungement on or before August 28, 2024, shall be identified and expunged by August 28, 2029.

Based on additional information from MHP officials, Oversight will present \$500,000 to \$1,000,000 in costs for the MHP's Criminal History System's upgrade to expunge records in FY2026. Assuming funds would not be appropriated for this upgrade in the FY2025 budget, MHP believes it would be required to submit a supplemental appropriation request. By placing the costs in FY2026, a new decision item could be submitted in the FY2026 budget request to cover this cost.

Oversight also notes Section 610.141.2 states beginning August 28, 2027, 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.

Officials from the **Office of State Courts Administrator (OSCA)** state the fiscal impact on Show-Me Courts and possibly other systems would be approximately \$3,000,000 to \$5,000,000 to develop with an annual cost of approximately \$1,000,000 to manage the system.

Additionally, \$11,842,481 personal services for 287 FTE court clerks (\$41,263 annually, each; fringe benefits in HB 5 are not included in this fiscal note response) plus \$894,005 E&E (\$777,196 one-time cost plus ongoing costs of \$116,809) totaling \$12,736,486 would be needed to process expungements.

Therefore, one-time costs would be approximately \$5,777,196, and ongoing costs would be least \$12,959,290 to an unknown amount.

Oversight determined the fringe benefit cost for 287 FTE court clerks to be approximately \$7,417,363 for FY2025; \$8,992,643 for FY2026; and \$9,086,398 for FY2027. Oversight assumes OSCA will not hire 287 FTE court clerks in FY2025. Oversight assumes OSCA will hire approximately half of the required FTE in FY2026 and half in FY2027 and will present approximately half of the fringe benefits and E&E in each year as well. In addition, Oversight assumes the costs on the Show-Me Courts and other systems would be incurred in FY2026 to give OSCA time to submit a new decision item in its FY2026 budget request.

Oversight notes §610.144 establishes a new fund which consists of moneys deposited into it from any source including, but not limited to, gifts, donations, bequests, or grants. The Department of Public Safety, the Information Services Division within the Office of Administration and Office and 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 §§610.141 to 610.143. For fiscal note purposes, Oversight will reflect the amount of state appropriations for this program as **\$0 for FY2025; (Could exceed \$38,801,767) for FY2026; (Could exceed \$63,886,295 for FY2027); and (Could exceed \$76,135,187 for FY2028)** to the General Revenue Fund. Additionally, Oversight also assumes 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 creates provisions relating to expungement. Section 610.141 establishes automatic expungement for offenses under certain stipulations.

Expunging these records for the specified offenses through destruction, redacting or removal will result in an increase in workload for the Department's Institutional Records Officers, as they are the custodian of records for DOC's offender files. This may 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 DOC.

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 beginning FY 2028 since §610.141 provides that records will be closed beginning August 28, 2027.

Officials from the **Department of Revenue (DOR)** state §610.141.2(2) provides that records pertaining to juvenile adjudications or offenses involving the operation of a motor vehicle are not eligible for automated expungement. The department anticipates that it would continue to receive court orders of expungement for any conviction or action related to these sections to be reviewed and processed manually by the department; §610.141.3(10) states the DOR has thirty (30) days to expunge the records once the order is received from the court; and §610.141.6 states that the provisions of this section shall apply retroactively.

DOR officials provide that with the statutory requirement of thirty (30) days to process the expungement, and the provisions applying retroactively, the department is concerned that its existing staff may not be able to process the volume of orders in the mandated timeframe. There is no data to assist in determining the volume of orders the DOR will receive, but it anticipates it will not cause the department to need additional FTE. If the workload increase is more significant than anticipated and the DOR finds it is unable to absorb the additional work with existing staff, the department may request additional FTE through the appropriations process.

The fiscal impact estimated above is based on changes in the current DOR's Motor Vehicle and Driver Licensing system environment. The implementation of this legislation will be coordinated with the integration of the DOR'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 does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for this agency.

Officials from the **Office of Administration (OA)** assume §610.143 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.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for this agency.

Officials from the **City of Kansas City** state the proposed bill will have a negative fiscal impact of an indeterminate amount due to additional administrative costs.

Officials from the **Branson Police Department** state the proposed changes put an undue burden on municipalities and others in law enforcement to comply with the “automatic” expungement. These proposed changes will require hundreds of hours of additional work by the various entities. This will require additional staff. In addition, it will allow records to be expunged even with outstanding fines and costs unpaid, thereby reducing revenue owed to local governments. The fiscal impact is unknown.

Officials from the **St. Louis County Police Department** state this legislation would require the expungement of various offenses by 2027. 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.

Oversight notes the unknown, indeterminate and significant fiscal impacts provided by police departments; however, Oversight is unable to project a statewide cost. Therefore, the impact to local governments will be presented as (Unknown).

Officials from the **Missouri Lottery Commission (LOT)** state its “no impact” response assumes it fingerprint background checks authorized under Lotter Statute 313.220.2 will still have access to closed criminal history information: “Notwithstanding the provisions of §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.

Oversight does not have any information to the contrary. Therefore, Oversight will reflect no fiscal impact for this agency.

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

Officials from the **Department of Labor and Industrial Relations**, the **Department of Social Services**, the **Office of the Governor**, the **Missouri Department of Transportation**, the **Phelps County Sheriff's Department**, the **Kansas City Police Department** and the **Missouri Office of Prosecution Services** each 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.

In response to similar legislation from the current session (HB 2108), officials from the **Office of Attorney General (AGO)** assumed any additional litigation costs arising from this proposal can be absorbed with existing personnel and resources. However, the AGO may seek additional appropriations if there is a significant increase in litigation or investigation costs.

Oversight does not have any information to the contrary. Therefore, Oversight assumes the AGO will be able to perform any additional duties required by this proposal with current staff and resources and will reflect no fiscal impact to the AGO for fiscal note purposes.

In response to similar legislation from the current session (HB 2108), officials from the **Office of the State Treasurer** assumed the proposal would have no fiscal impact on their organization.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, county circuit clerks, county prosecutors, sheriffs and police departments 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.

MISSOURI EXPUNGEMENT FUND (continued)				
<u>Cost</u> – OSCA (§§610.141 to 610.144) - to expunge records p.5				
Personal service	\$0	(\$6,018,621)	(\$12,320,917)	(\$12,567,336)
Fringe benefits	\$0	(\$4,480,655)	(\$9,086,287)	(\$9,181,804)
Equipment and expense	\$0			
		(\$388,598)	(\$447,003)	(\$116,809)
System development and ongoing expenses		<u>(\$3,000,000 to \$5,000,000)</u>	<u>(\$1,000,000)</u>	<u>(\$1,000,000)</u>
<u>Total Costs</u> - OSCA	\$0	(\$13,887,874 to \$15,887,874)	(\$22,854,207)	(\$22,865,949)
FTE Change - OSCA	0 FTE	143 FTE	287 FTE	287 FTE
<u>Cost</u> – MHP (§§610.141 to 610.144) p. 4-5		Up to...	Up to...	Could exceed...
Personal service	\$0	(\$11,025,290)	(\$26,989,910)	(\$27,529,708)
Fringe benefits	\$0	(\$9,818,020)	(\$12,257,603)	(\$24,515,205)
Equipment and expense	\$0	(\$560,250)	(\$560,250)	\$0
Leased office space with janitorial services	\$0	(\$510,333)	(\$1,224,325)	(\$1,224,325)
System development	\$0	<u>(\$500,000 to \$1,000,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total cost</u> – MHP	\$0	(\$22,413,893 to \$22,913,893)	Up to (\$41,032,088)	Could exceed (\$53,269,238)
FTE Change – MHP	0 FTE	Up to 250 FTE	Up to 501 FTE	Up to 501 FTE
ESTIMATED NET EFFECT ON THE MISSOURI EXPUNGEMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Estimated Net FTE Change on the Missouri Expungement Fund	0 FTE	Up to 393 FTE	Up to 788 FTE	Up to 788 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2025 (10 Mo.)	FY 2026	FY 2027	Fully Implemented (FY 2028)
LOCAL POLITICAL SUBDIVISIONS				
<u>Cost – Local political subdivisions (§610.144.2) To expunge records p. 8</u>	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	<u>\$0</u>	<u>\$0</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This bill establishes an automatic record-clearing process for the closing of certain records not excluded from eligibility for expungement and offenses for which the Governor has granted a full pardon, beginning August 28, 2027. An individual may be granted more than one expungement under this bill, subject to specified parameters and exceptions. Beginning August 28, 2027, the Office of State Courts Administrator (OSCA) must identify and transmit to the central repository all records of charges and convictions eligible for expungement within 30 days of the record becoming eligible for expungement without petition. If a record is eligible for expungement on or before August 28, 2024, it must be identified and expunged by August 28, 2029. If a circuit court determines a record is not eligible for expungement without petition, the court must notify OSCA within 30 days and specify the reasons upon which the court relied to make the determination. A digital access portal of all orders of expungement must be created by OSCA and the portal will allow users to determine if an order of expungement in the individual's name has been granted. If a court finds, after a motion, a conviction was improperly or erroneously expunged under this bill, the court must reinstate the conviction. (§610.141)

Beginning August 28, 2026, OSCA must report yearly certain data to the Judiciary committees of the Senate and the House of Representatives. A credit bureau may report records of arrests, indictments pending trial, and convictions for no more than seven years from the date of release or parole. A credit bureau may no longer report such records if, at any time after conviction,

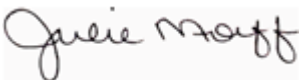
indictment, or arrest, it is learned that a full pardon or expungement has been granted for such conviction. (§610.142)

Lastly, the bill creates in the State Treasury the "Missouri Expungement Fund", which is a fund dedicated to the creation, operation, and maintenance of the program. (§610.144)

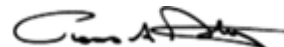
This legislation is not federally mandated, would not duplicate any other program but would require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Corrections
Department of Labor and Industrial Relations
Department of Revenue
Department of Public Safety –
 Office of the Director
 Missouri Highway Patrol
Department of Social Services
Office of the Governor
Missouri Department of Transportation
Office of Administration
Office of the State Treasurer
City of Kansas City
Phelps County Sheriff's Department
Branson Police Department
Kansas City Police Department
St. Louis County Police Department
Missouri Lottery Commission
Missouri Office of Prosecution Services
Office of the State Courts Administrator



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