

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-1689/1	Introduction Number AB-0033
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Description
 expungement of records of certain crimes

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local:

No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DA/ Kasey Deiss (608) 267-2700	Authorized Signature James Langdon (608) 264-6109	Date 3/11/2019
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Fiscal Estimate Narratives

DA 3/11/2019

LRB Number	19-1689/1	Introduction Number	AB-0033	Estimate Type	Original
Description expungement of records of certain crimes					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, a court may order a person's criminal record expunged of a crime for which the maximum term of imprisonment is six years or less (Class H felony and below) if the person committed that crime before the age of 25, the person had not been previously convicted of a felony, and the crime was not a violent felony. Current law specifies that the expungement order must be made only at sentencing and then the record is expunged when the person completes his or her sentence.

This bill removes the condition that the person committed the crime before the age of 25 (the bill retains the requirements that the crime be no greater than a Class H felony, the person had no previous felony convictions, and the crime was not a violent felony) and makes certain traffic crimes ineligible for expungement. This bill also provides that, if the sentencing court did not order the record expunged, the person may file a petition with the sentencing court after he or she completes his or her sentence. Upon receipt of the petition, the court must review the petition and then may order the record expunged or may deny the petition. If the court denies the petition, the person may not file another petition for two years, and no person may file more than two petitions per crime. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

This bill also allows the sentencing court to order that a person's record not be eligible for expungement. This bill provides that, if a record is expunged of a crime, that crime is not considered a conviction for employment purposes and specifies that employment discrimination because of a conviction record includes requesting a person to supply information regarding a crime if the record has been expunged of the crime.

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The responsive District Attorneys expressed concern over additional workload as a result of expungement petitions and hearings. Particularly concerning for the District Attorneys was the additional prosecutorial hours to gather documents related to potentially very old cases, locate and notify victims, familiarize themselves with the relevant facts, and participate in the hearings. Traditionally, the law assumes a certain level of finality in a conviction; this proposed bill provides a mechanism for nearly every class H and below felony or misdemeanor conviction to be re-litigated.

The most recent District Attorney workload analysis from August of 2018 shows that District Attorney Offices across the state are already 166 prosecutors understaffed based on their current workloads. This change in law would increase the Wisconsin prosecutor shortage.

Long-Range Fiscal Implications

The responsive District Attorneys did not take a position on whether changes to Wisconsin's existing expungement mechanisms should be made. However, the consensus among prosecutors is that if this proposal were to become law then sufficient resources must be allocated to the District Attorney Offices across the state to offset the new caseload.