

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 19-1690/1	Introduction Number SB-039
Description expungement of records of certain crimes	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate	
<input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
<input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate	
1. <input checked="" type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected	
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities	
2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By	Authorized Signature
CTS/ Nancy Rottier (608) 267-9733	Nancy Rottier (608) 267-9733
	Date
	3/5/2019

Fiscal Estimate Narratives

CTS 3/5/2019

LRB Number 19-1690/1	Introduction Number SB-039	Estimate Type Original
Description expungement of records of certain crimes		

Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to the procedures for expunging circuit court records of convictions. The bill removes the requirement that a request for expungement of a conviction be made at the time of sentencing and allows a defendant to petition the circuit court at a later time for an order expunging the record of conviction. The bill also removes the current provision limiting expungement to defendants who were under the age of 25 at the time of commission of the offense. The bill does not make changes to the types of crimes for which a petition may be brought.

Under the bill, the circuit court is required to review petitions for expungement to determine whether they meet the statutory eligibility criteria. The circuit court has discretion about holding hearings to determine whether to grant or deny petitions for expungement.

It is impossible to predict how many such petitions will be filed in the circuit courts. Although no exact figure is available, it is estimated that several thousand defendants are eligible to petition for expungement each year. In the three most recent calendar years, 2016 – 2018, there were an average of 46,900 misdemeanor cases and 41,450 felony cases opened each year. These figures do not include criminal traffic cases, which are not eligible for expungement. Expungement of circuit court records is not available to defendants in all of these cases. Only those felony cases that involve certain Class H or Class I felonies are eligible for expungement.**

Not all of those currently eligible for expungement request that the court order the record expunged, and it is not expected that all of those eligible under the terms of this bill would petition for expungement if this bill is passed.

This bill requires the court to review all petitions for eligibility and will require hearings in many cases for which petitions for expungement are filed. Additional proceedings require additional judge, court reporter, and court staff time. These costs are borne by both the state and the county. An accurate estimate of the additional costs of this proposal, and how those costs will be divided between the state and the counties, is impossible with the data available.

The bill provides for initial applicability to “any conviction for which sentencing has occurred but for which the record has not been ordered expunged on the effective date of this subsection.” Assuming a substantial number of persons will file petitions for expungement based on cases already closed, it is anticipated this bill will result in a temporary increase in workload for the courts. It is expected that existing court staff will be able to absorb the impact of this temporary increase in workload.

This bill also requires a petitioner to pay a filing fee of \$100 for the second petition for expungement filed. As with all filing fees, petitioners may request that the court waive the fee because of indigency. The bill is unclear where the revenues raised by this fee are to be deposited. The amount of revenue that may be raised by the imposition of this fee is unknown; it will depend on the number of petitions filed and the percentage of petitions in which the fee is paid versus being waived for indigency.

**For a listing of Class H and Class I felonies, see Legislative Fiscal Bureau Information Paper #53 entitled “Felony Sentencing and Probation” on pages 73-83. The paper is available at:
http://docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2019/0053_felony_sentencing_and_probation_informational_paper_53.pdf

Long-Range Fiscal Implications