

### Fiscal Estimate - 2023 Session

Original     
  Updated     
  Corrected     
  Supplemental

LRB Number <b>23-0955/1</b>	Introduction Number <b>AB-0037</b>
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**Description**  
 expungement of records of certain crimes and discrimination based on expunged conviction

**Fiscal Effect**

**State:**

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

**Local:**

<input type="checkbox"/> No Local Government Costs	<b>5. Types of Local Government Units Affected</b>	
<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	

1. <input checked="" type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs	4. <input type="checkbox"/> Decrease Revenue
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory

<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

<b>Agency/Prepared By</b> DA/ Amanda Mott (608) 266-2843	<b>Authorized Signature</b> Richard Rydecki (608) 264-6109	<b>Date</b> 2/14/2024
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## Fiscal Estimate Narratives

DA 2/14/2024

LRB Number 23-0955/1	Introduction Number AB-0037	Estimate Type Original
<b>Description</b> expungement of records of certain crimes and discrimination based on expunged conviction		

### Assumptions Used in Arriving at Fiscal Estimate

This fiscal estimate is submitted by the Director of the State Prosecutors Office on behalf of Agency 475 – District Attorneys. This fiscal estimate is responsive only to the fiscal and resource effect of the proposed legislation on the District Attorney program.

This bill significantly modifies the law related to expungement. The following changes are most impactful to DA offices:

- Removes the condition that the person committed the crime before the age of 25.
- Maintains the restriction that certain crimes are ineligible for expungement, such as traffic crimes, the crime of violating a domestic abuse restraining order or injunction, criminal trespass, and criminal damage to a business. The bill also allows the sentencing court to order that a person's record not be eligible for expungement.
- 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. The person must pay a \$100 fee to the county for a second petition, and no person may file more than two petitions per crime.
- If the court determines the person is eligible to petition for expungement, the court shall forward the petition to the district attorney. If the district attorney requests a hearing within 90 days after the court forwards the petition, the court shall schedule a hearing to review the petition.
- Upon receipt of a petition, the district attorney shall make a reasonable attempt to notify the victim, as defined in s. 950.02 (4), of the petition. In the notice, the district attorney shall inform the victim that he or she may waive the hearing requirement and that, if waived, the court may review the petition without a hearing.
- The district attorney shall inform the victim of the manner in which he or she may provide written statements concerning the petition and, if the victim does not waive the hearing requirement, that he or she may appear at the hearing.
- The bill limits a person to one expungement.
- The changes described apply to persons who were convicted of a crime before the bill takes effect.

Responsive District Attorneys were concerned with the increased workload to their office resulting from this bill. Determining how many people in Wisconsin could be eligible for expungement under this bill is beyond the scope of this fiscal estimate but media reporting related to this bill indicates 1.4 million Wisconsinites have a criminal record. Conservatively estimating that 10% of those individuals might be newly eligible for expungement under this bill, that would create the possibility that 140,000 petitions might be filed with the courts (up to two times each). With each petition, the DA office would have the responsibility to secure and review the case file, notify and consult with the victim(s), reach a determination as to whether to oppose the expungement and if necessary attend a hearing to advocate for retaining the conviction. As crime rates rise and the COVID backlog in the court lingers, there is significant concern in the DA offices as to this potential avenue for increased workload. Responsive DAs report that they would need an increase in position authority and an increase in compensation rates to recruit attorneys into the positions in order to address this new responsibility.

## Long-Range Fiscal Implications

This bill would permanently increase the workload and responsibilities of all 71 District Attorney offices across the state. The potential initial surge of petitions has the possibility to overwhelm already understaffed and overworked offices. If this bill were to become law, DAs request increases in prosecutorial staffing to address the increased workload and increased compensation in order to recruit qualified attorneys into the new positions.