

Fiscal Estimate Narratives

CTS 2/15/2023

LRB Number	23-1317/1	Introduction Number	SB-0038	Estimate Type	Original
Description expungement of records of certain crimes and discrimination based on expunged conviction					

Assumptions Used in Arriving at Fiscal Estimate

This bill changes current law related to expungement by removing the condition that an individual 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 individual had no previous felony convictions, and the crime was not a violent felony) allowing an individual to file a petition with the sentencing court at least one year after successful completion of his or her sentence if it was not ordered at the time of sentencing. This bill also allows the sentencing court to order an individual's record ineligible for expungement and makes certain traffic crimes ineligible for expungement.

This bill significantly increases the number of individuals who would be eligible to have their criminal case expunged by removing the current requirement that the person committed the crime before the age of 25. Additionally, this bill removes the current requirement that expungement must be ordered at the time of sentencing and allows defendants to request expungement after completing their sentence by filing a petition with the court.

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 the second petition. A person may not file more than two petitions per crime. Finally, this bill limits a person to one expungement. The changes described in this paragraph retroactively apply to persons who were convicted of a crime before this bill takes effect.

Under the proposed legislation, there will likely be an increase in expungement petitions the Court receives. These additional petitions would likely require an increased, but indeterminate, amount of staff hours to manage prosecution and court process.

Fiscal Effect – Costs/Savings: The Director of State Courts has determined that the implementation of this bill would incur indeterminate, one-time GPR and PR costs.

GPR one-time implementation costs

- Creating a new form or amend an existing form to allow defendants to petition for expungement after completing the sentence
- Updating the fee chart to reflect a new \$100 filing fee for filing a second expungement petition
- Updating publications and website materials
- Creating new procedures and trainings for judges and clerks
- Providing training to judges and clerks

PR one-time Consolidated Court Automation Program (CCAP) implementation costs requires substantial one-time programming

- Adding new/amended forms
- Creating new \$100 filing fee
- Creating a new eFiling document type
- Create new court record events and potentially a new maintenance code to reflect when someone is precluded from filing any other requests for expungement

The Director of State Courts has determined that it would require approximately three months (520 hours) of one-time programming costs in order to make the changes required under the bill. In order to implement the changes, staff would have to be diverted from normal activities in order to complete the programming. As a result, it is likely that CCAP would need to hire temporary staff or contractors to

complete the programming, at an approximate cost of \$81/hr, for a total cost of \$42,120. This would increase costs but it may be possible to absorb those costs within the department's budget.

Fiscal Effect – Revenue: An indeterminate amount of revenue will be generated as a result of the filing fee associated with the proposed legislation.

Fiscal Effect – Local impact: Because this bill is retroactive and would apply to any eligible case where expungement has not been ordered, it is likely that courts will receive a substantial number of requests for expungement for old cases, which will impact clerks, judges, and DA's Offices.

It is not possible to project the increase in expungement petitions that would need to be processed by the Courts or by counties, therefore the state or local cost increase resulting from this bill is indeterminate at this time.

Long-Range Fiscal Implications

The Court system does not anticipate a long-range impact resulting from this proposed bill.