

Fiscal Estimate Narratives

DOA 4/11/2023

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

Senate Bill 38 (SB-38) proposes changes to the expungement of a person's criminal record, the process for filing and petitioning for an expungement, and the treatment of an expunged record for employment purposes.

Under the proposed legislation, a crime that is expunged is not considered a criminal conviction for employment purposes or for issuance of certain licenses, unless otherwise conflicting with federal law. It is not considered employment discrimination for the Law Enforcement Standards Board to consider the expungement of a criminal conviction in its refusal to certify, recertify, decertify, or allow an individual to participate in a training program.

The Department of Administration's, or Department's, Division of Capitol Police (DCP) is responsible for employing law enforcement to perform state police and protection functions; the Division's operations are funded out of appropriation s. 20.505(5)(ka), Wis. Stats.

Under current practice, DCP only accepts law enforcement candidates who are certified by the Law Enforcement Standards Board, thus DCP candidates meet the Board's standards concerning criminal history. Therefore, given the exception to employment discrimination as identified above, the Department does not anticipate that its DCP hiring processes or expenditures under s. 20.505(5)(ka), Wis. Stats., would generally be impacted under SB-38.

The Department's Division of Personnel Management (DPM) is responsible for providing HR enterprise services under s. 20.505(1)(kz), Wis. Stats., and as authorized under Chapter 20, Wis. Stats., for administering civil service laws, which includes providing consultation to all state agency human resource and employment relations representatives in their interpretation and application of recruitment and employment relations, state statutes, administrative code, and policies. DPM is also responsible for the review at the agency and enterprise levels of criminal background check information.

DPM would be required to modify enterprise and agency state employee policies and procedures, and associated forms, to expand its current prohibition of discrimination based upon arrest or conviction record to include expunged records, regardless of whether the conviction now expunged was substantially related to the circumstances of the particular job the candidate is applying for. Additional one-time training efforts may be required for the human resources staff reviewing criminal background checks, in order to obtain knowledge of and comply with the aforementioned changes. The Department cannot readily provide an estimate of the number of state employment applicants impacted by the proposed legislation.

The Department estimates that this indeterminate amount of additional DPM staff time required would be able to be absorbed within currently existing staffing levels and expenditure authority under s. 20.505(1)(kz), Wis. Stats.

The Department anticipates that certain local municipalities and units of government within the state operate under the same law enforcement hiring practices of accepting candidates certified by the Wisconsin Law Enforcement Standards Board; whereas other local units of government that operate independent academies, while generally conforming to such standards, could be impacted depending upon current practices. As such, the impact of SB-38 to local law enforcement entities is indeterminate.

Under Chapter III Subchapter II Wisconsin Fair Employment, the employment practices at the county and municipal levels would be required to be modified to comply with SB-38, and as such may be required to modify their existing employment policies, practices, and guidelines, for which the fiscal impact on a one-time and ongoing basis under each is indeterminable.

Long-Range Fiscal Implications