

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1578-01  
Bill No.: HB 1027  
Subject: Criminal Procedure; Courts  
Type: Original  
Date: April 7, 2009

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Bill Summary: The proposal authorizes the expungement of certain criminal records.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	(\$801,733)	(\$971,119)	(\$1,000,252)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$801,733)</b>	<b>(\$971,119)</b>	<b>(\$1,000,252)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
General Revenue	22	22	22
<b>Total Estimated Net Effect on FTE</b>	<b>22</b>	<b>22</b>	<b>22</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Transportation, Department of Corrections, Department of Public Safety – Missouri State Highway Patrol, and the Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would expand the number of criminal records eligible for expungement. This would cause a significant workload and fiscal impact on the courts.

As a result of this legislation, CTS estimates approximately 9,000 additional expungement petitions will be filed annually. Based upon clerical weighted workload statistics, it takes approximately 266 minutes or 4.4 hours of clerical time to process a case. The increase in workload would require 22 additional court clerks (each at \$27,564 per year).

CTS estimates the cost will be \$801,733 in FY 10 and approximately \$1,000,000 in subsequent years.

Officials from the **Department of Revenue (DOR)** assume the provisions of section 610.135, which would require DOR to honor court orders for expungement of certain traffic convictions and civil administrative license actions, appear to violate federal requirements of 49 CFR Part 383 and 384 for compliance with Federal Motor Carrier Safety Administration regulations in that it improperly permits the expungement of certain alcohol-related traffic convictions and administrative decisions (i.e., section 302.500, et seq. administrative alcohol suspension and revocation actions) for CDL holders.

Would potentially place Missouri's CDL program compliance in jeopardy, and risk the loss of federal highway funding.

Failing to comply with the federal regulations could result in the loss of Missouri's portion of the federal highway funds. The first year of non-compliance could result in a 5% reduction of such funds (approximately \$25 million); each subsequent year of non-compliance is subject to a 10% reduction.

ASSUMPTION (continued)

**Oversight** assumes Department of Revenue assumption that the proposal would jeopardize federal funding is speculative and dependent upon other factors. Therefore, Oversight is reflecting no fiscal impact to the DOR for this fiscal note. If DOR is found to be out of compliance with federal requirements, then the proposal could result in a loss of federal funding.

Officials from the **Office of Prosecution Services (OPS)** assume this bill will have no fiscal impact on the Missouri Office of Prosecution Services. It may have some negative fiscal impact on elected prosecuting attorneys in that they will be required to search their paper and electronic files for any pertinent records when a request for expungement has been made.

**Oversight** assumes county prosecutors could absorb costs of searching documents within existing resources.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

**Officials from the Office of the Attorney General, Jackson County Circuit Clerk, Phelps County Circuit Clerk, and the St. Louis City Circuit Clerk did not respond to Oversight's request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2010 (10 Mo.)	FY 2011	FY 2012
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Office of State Courts</u>			
Administrator (CTS)			
Personal Service	(\$520,500)	(\$643,338)	(\$662,638)
Fringe Benefits	(\$265,195)	(\$327,781)	(\$337,614)
Equipment and Expense	(\$16,038)	\$0	\$0
<u>Total Costs – CTS</u>	<u>(\$801,733)</u>	<u>(\$971,119)</u>	<u>(\$1,000,252)</u>
FTE Change – CTS	22 FTE	22 FTE	22 FTE
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	 <b><u>(\$801,733)</u></b>	 <b><u>(\$971,119)</u></b>	 <b><u>(\$1,000,252)</u></b>
 Estimated Net FTE Change for General Revenue Fund	 22 FTE	 22 FTE	 22 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2010 (10 Mo.)	 FY 2011	 FY 2012
	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

The proposed legislation authorizes the expungement of certain criminal records of adults and minors prosecuted as adults. Convictions for any violation of prostitution under Section 567.020, RSMo; any misdemeanor or felony violation of Chapter 195; or certain municipal ordinance violations or misdemeanors may be expunged. The expungement of a record is allowed only when at least five years has elapsed since the person requesting expungement has completed his or her imprisonment, period of probation, or period of parole and the person has not been convicted of or been placed on probation for a misdemeanor or felony during the same period and has not had any other petition for expungement granted. The expungement of records for driving while intoxicated (Section 577.010), driving with excessive blood-alcohol content (Section 577.012), any misdemeanor violation of Section 568.050 or 568.052, any municipal ordinance violation or misdemeanor offense committed by a holder of a commercial driver's license, any misdemeanor offense requiring registration as a sexual offender, or any violation of an order of protection issued under Chapter 455 will not be allowed.

Any individual wanting to expunge a criminal record is required to file a petition in the civil division of the circuit court naming as defendants all entities whom the petitioner has reason to believe may possess the record. The court must schedule a hearing on the expungement petition no sooner than 30 days from the filing of the petition and must give reasonable notice of the hearing to each official agency or other entity named in the petition. If a court grants the order of expungement, the records and files maintained in any administrative or court proceeding in an associate circuit or circuit court for any offense ordered expunged will be confidential and only available to the parties or by order of the court for good cause shown.

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

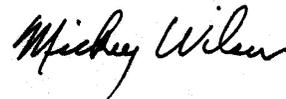
## SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Transportation  
Department of Corrections  
Department of Revenue  
Department of Public Safety  
– Missouri State Highway Patrol  
Office of Prosecution Services  
Office of the Secretary of State  
Office of the State Public Defender

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**NOT RESPONDING**

**Office of the Attorney General  
Jackson County Circuit Clerk  
Phelps County Circuit Clerk  
St. Louis City Circuit Clerk**



Mickey Wilson, CPA  
Director  
April 7, 2009