

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO. 4052-02
BILL NO. HB 2131
SUBJECT: Expungement of Criminal Records
TYPE: Original
DATE: April 26, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(Unknown)	(Unknown)	(Unknown)
Criminal Records	(\$241,960)	(\$257,902)	(\$264,191)
Total Estimated Net Effect on <u>All</u> State Funds	(\$241,960 to Unknown)*	(\$257,902 to Unknown)*	(\$264,191 to Unknown)*

* Does not include unknown costs to CTS and DOC.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would be retroactive and a large unknown number of petitions could be filed, especially in the first few years. CTS states there have been between 60,000 and 63,000 convictions or guilty pleas in recent years that could fit the definition of the qualifying crimes. CTS does not have access to data on the numbers of cases from over fifteen years ago where the defendant has had no subsequent conviction nor age-of-defendant information, which illustrates the potential size of the fiscal impact. There is also no provision made to notify agencies which have records of the prior conviction of the expungement. CTS assumes the proposal could have a significant fiscal impact on the budget of the judiciary, but the extent of the cost would depend upon the number of petitions actually filed.

In response to a similar proposal, officials from the **Department of Corrections (DOC)** assumed they have the means available to electronically delete the certain criminal conviction records referred to in this proposal. However, conviction records contained or referred to in written files will have to be removed manually as those records would have been stored during the intervening years at State Archives. It is estimated that a minimum of 4 hours of clerical assistance would be expended at \$10 per hour to locate and delete the record. The DOC has no means to predict the number of manual expungements that would be required.

New commitments which could result from the creation of the offense(s) outlined in this proposal could not be accurately determined. In addition, changes in penalty provisions for current crimes could result in additional costs due to new commitments and/or longer sentences. The utilization of these laws for both new offenses and enhanced penalties for current offenses depend upon actions of prosecutors and the courts.

If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day).

The need for additional capital improvements would not be anticipated at this time. It must be noted that the cumulative effect of various new legislation, if adopted, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

ASSUMPTION (continued)

Due to the wide variance of crimes and punishments including newly created crimes and punishments, the fiscal impact as it relates to the DOC is unknown, but not estimated to exceed \$100,000 annually.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** assume the proposal would have a significant fiscal impact on their budget due to the great number of sealed record requests anticipated. According to MHP, there are approximately 200,000 individuals without an arrest in the past ten years that would be eligible (pursuant to this proposal) to have criminal charges expunged. Assuming that a Quality Control person could seal 12 records per day, MHP assumes they would require 70 FTE Quality Control Clerks (\$17,736) to handle the expungements within three years. Furthermore, MHP assumes their Criminal Records Division would require 8 FTE Data Entry Clerks (\$17,112) and 1 FTE Fingerprint Technician (\$20,172), plus related fringe benefits, equipment, and operating expenses to carry out the provisions of this proposal. MHP further assumes the proposal would require the construction of a new building for the additional 79FTE. MHP estimates construction costs at \$477,020, janitorial costs at \$4,148, and utility costs at \$6,637.

Additionally, MHP assumes their Information Systems Division would be required to develop automated procedures to address the sealing of records for those individuals who meet the provisions of this proposal. MHP assumes two batch procedures would be required at 75 hours each. The current state contact price for consulting services is \$110 per hour. Therefore, MHP assumes the total cost for these procedures would be \$16,500 ($\$110 \times 2 \times 75$ hours). MHP assumes that once a record meeting this criteria has been sealed, it would be treated in the same manner as all other closed records. If the rules regarding who can and cannot receive the sealed records (and for what purpose) is different than the rules for closed records, then such a practice would have an additional impact on MHP.

MHP's Traffic Division would also be affected by this proposal. This division enters roughly 300,000 records in to the Traffic Arrest System/Alcohol and Drug Offense Record System (TAS/ADORS) per year with an estimated total of 2 million records in the database prior to 1999. Based on the provisions of this proposal, MHP officials estimate that 100,000 records would meet the criteria for expungement but only 50,000 would actually be sealed. If the average FTE could expunge 10 records per hour and the FTE works 1,856 hours per year, three (3) Quality Control Clerks would be requested to expunge the 50,000 records.

ASSUMPTION (continued)

In response to a nearly identical proposal from the previous legislative session, MHP officials estimated the number of eligible persons at 268,000. **Oversight** assumes all of the estimated 268,000 eligible persons would not file a petition requesting their criminal records to be sealed. There is no way to estimate the number of sealed records that could result from this proposal; however, Oversight assumes that number would be significantly less than 268,000. Oversight assumes MHP would require 10 FTE Quality Control Clerk I's, plus equipment and operating expenses to carry out the provisions of this proposal. If, after experience with the new procedures outlined in this proposal, the workload proves that additional FTE are required, it is assumed additional FTE could be requested in the normal budget process. Oversight assumes the MHP expenses would be charged to the Criminal Records System Fund.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would have no fiscal impact on their agency. OPS further assumes that any increase in caseload for local prosecutors as a result of this proposal would be minimal and could be absorbed with existing resources.

Officials from the **Office of the State Public Defender**, the **Department of Transportation**, the **Department of Revenue**, and the **Office of the Attorney General** assume the proposed legislation would have no fiscal impact on their agencies.

FISCAL IMPACT - State Government

FY 2001	FY 2002 (10 Mo.)	FY 2003	
GENERAL REVENUE FUND			
<u>Costs</u> - Office of State Courts Administrator	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> - Department of Corrections	(Unknown)	(Unknown)	(Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2001	FY 2002	FY 2003
(continued)	(10 Mo.)		

CRIMINAL RECORDS SYSTEM FUND

<u>Costs - Department of Public Safety</u>			
Missouri State Highway Patrol (MHP)			
Personal Service (10 FTE)	(\$147,800)	(\$181,794)	(\$186,339)
Fringe Benefits	(56,725)	(69,773)	(71,517)
Equipment and Expense	(37,435)	(6,335)	(6,335)
<u>Total Costs - MHP</u>	<u>(\$241,960)</u>	<u>(\$257,902)</u>	<u>(\$264,191)</u>

ESTIMATED NET EFFECT ON CRIMINAL RECORDS SYSTEM	<u>(\$241,960)</u>	<u>(\$257,902)</u>	<u>(\$264,191)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2001	FY 2002	FY 2003
	(10 Mo.)		
	0	0	0

FISCAL IMPACT - Small Business

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

DESCRIPTION

This proposal makes changes to provisions relating to the expungement of criminal records. The proposal creates the "Missouri Citizen Restoration Act," which allows certain defendants who have pled guilty to either one felony or 2 misdemeanors and who meet the act's qualifications to petition the court to have the criminal or juvenile records sealed.

Failure to seal records that meet the act's requirements is a class B felony, and knowingly using the information contained in sealed records for financial gain is a class D felony. The public will not have access to the sealed records, but the records will remain open to law enforcement agencies.

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DESCRIPTION (continued)

The proposal also adds 2 circumstances in which criminal records may be expunged: (1) if the arrest was based on false information, the subject of the arrest has no suspended imposition of sentence, and there are no pending criminal investigations regarding the arrest; or (2) if no criminal charges have been filed against the subject of the arrest within 10 years.

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
Missouri Department of Transportation
Department of Revenue
Office of the Attorney General
Department of Public Safety - Missouri State Highway Patrol
Office of State Public Defender
Office of Prosecution Services

NOT RESPONDING: Department of Corrections



Jeanne Jarrett, CPA
Director
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