

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4332-01
Bill No.: SB 1092
Subject: Public Records, Public Meetings; Criminal Procedure; Crime and Punishment;
 Courts
Type: Original
Date: March 4, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(\$15,000) to (Unknown)	Less than (\$100,000) to (Unknown)	Less than (\$100,000) to (Unknown)
Highway Funds	(Unknown)	(Unknown)	(Unknown)
Criminal Records Systems	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$15,000) to (Unknown)	Less than (\$100,000) to (Unknown)	Less than (\$100,000) to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
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 Attorney General** assume the costs of the proposed legislation could be absorbed within existing resources.

Officials from the **Department of Social Services – Division of Youth Services (DYS)** assume the authorization of the courts to set aside criminal convictions and to expunge criminal records under certain circumstances is not expected to directly impact the DYS. Some applicants for positions with the DYS may have sealed arrest or conviction records due to meeting criteria established within the bill.

In response to an identical proposal in the 2001 session (SB 426), officials from the **Office of Prosecution Services** assumed prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those few cases arising where indigent persons were charged with disclosing sealed records. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

Officials from the **Office of State Courts Administrator (CTS)** assume it is not possible to estimate the fiscal impact of the proposal due to problems interpreting the bill. As written, the bill would be retroactive and a large, unknown number of petitions could be filed, especially in the first few years.

In recent years, there have been between 60,000 and 63,000 convictions or guilty pleas that could fit the definition of the qualifying crimes. CTS does not have age-of-defendant information. Data on the numbers of cases from over ten years ago where the defendant has had no subsequent conviction is not available.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume, according to the MHP's Criminal Records and Identification Division, there is no accurate way to determine the exact fiscal impact of this legislation. The fiscal impact depends on public reaction to being able to expunge criminal records.

ASSUMPTION (continued)

These calculations are based on the scenario that all eligible individuals petition the court, meet the requirements and the record of the petitioner is sealed. There are approximately 400,000 individuals without an arrest in the past 10 years. Just over 50% of those arrests fall into the category of nonviolent, nonsexual, nondrug and nonweapon offenses. This means that 200,000 people have records eligible for expungement. Since there are 232 working days in a year, and a Criminal History Record Technician can process 12 per day, the Criminal Records and Identification Division would require 75 FTE. The FTE would also require standard office equipment, as well as one full function AFIS work station (\$120,000). 15,000 (200 square foot x 75 FTE) square foot would be necessary to accommodate the additional FTE. The cost of leasing is approximately \$15 per square foot so the cost of the building would be approximately \$225,000 per year.

The MHP's Traffic Division also feels there is no accurate way to determine the exact fiscal impact of this legislation because it is based on public reaction.

Based on the scenario that all eligible individuals petition the court meet the requirements and the record of the petitioner is sealed, the Traffic Division would require 2 FTE. There are an estimated 100,000 records in the Traffic Arrest System and the Alcohol and Drug Offense Records System annually that meet the sealed records criteria. It is assumed that 50,000 (or 50%) of this total would actually be sealed. One FTE can process 10 court orders per hour and with 50,000 orders per year, the division would need 2 FTE, along with standard office equipment.

The Information Systems Division will have to develop automated procedures to address the sealing of records for those individuals who meet the provisions of this proposal. Estimates are calculated based upon the average number of hours required to complete a batch process. Cost figures are calculated based upon utilization of consulting services at the state contract prices.

75 hours (per batch process) x 2 Criminal History Records System procedures = 150 hours.
150 hours x \$100 per hour for consulting services = \$15,000. This cost would be incurred in FY 03.

At the time this fiscal note was being prepared, the Information Systems Division was researching the effects of the proposed legislation on the new rewritten Criminal History, which is currently being tested. If additional research determines that there will be a different fiscal impact, a revised fiscal note will be submitted at that time.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Costs</u> – Office of State Courts Administrator			
Sealing records	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Missouri State Highway Patrol			
Consulting services	(\$15,000)	\$0	\$0
<u>Costs</u> – Department of Corrections			
Incarceration/probation costs	<u>Less than (\$100,000)</u>	<u>Less than (\$100,000)</u>	<u>Less than (\$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$15,000) to (Unknown)</u>	<u>Less than (\$100,000) to (Unknown)</u>	<u>Less than (\$100,000) to (Unknown)</u>
HIGHWAY FUNDS			

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs</u> – Missouri State Highway Patrol Expunge records	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUNDS	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
CRIMINAL RECORDS SYSTEMS FUND			
<u>Costs</u> – Missouri State Highway Patrol Expunge records	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON CRIMINAL RECORDS SYSTEMS FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2003 (10 Mo.)	 FY 2004	 FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

DESCRIPTION

The proposed legislation would authorize courts to set aside criminal convictions and to expunge criminal records under certain circumstances. Current law allows courts to expunge arrest records if there was no probable cause for the arrest, no charges will be filed, and the subject of the arrest has no criminal convictions. This act adds the additional restriction that the subject not have suspended impositions of sentence (SISs) on his record and that there are no pending investigations regarding the arrest. The proposal would also allow expungement, however, based only upon a finding that no criminal charges have been filed against the subject for 10 years after the arrest.

DESCRIPTION (continued)

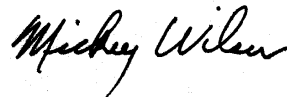
The proposal contains the Missouri Rehabilitation and Sealed Records Act which would authorize a court to set aside a person's criminal convictions and seal a person's criminal record if such person: 1. Has had no more than 1 felony or 2 misdemeanors; 2. Has not been convicted for 10 consecutive years following service of his or her most recent sentence; 3. Has no convictions for violent felonies or a sex-related offense; 4. Has no A or B felony convictions for a drug-distribution offense; 5. Has no convictions on his or her commercial drivers license (CDL) involving a BAC of .04 or higher; and 6. Is at least 25.

The proposal would criminalize knowing use or release of records sealed pursuant to the act. Failure to seal or knowingly releasing such records would be a class B misdemeanor and knowing use of the records for financial gain would be a class D felony.

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

SOURCES OF INFORMATION

Office of Attorney General
Office of State Courts Administrator
Department of Social Services
Office of State Public Defender
Department of Public Safety
– Missouri State Highway Patrol
Office of Prosecution Services



Mickey Wilson, CPA
Acting Director

March 4, 2002