Fiscal Estimate - 2017 Session

☒ Original   ☐ Updated   ☐ Corrected   ☐ Supplemental

LRB Number **17-2239/1**	Introduction Number **AB-0331**

Description
expungement of records of certain crimes

Fiscal Effect

State:
☐ No State Fiscal Effect
☒ Indeterminate

☐ Increase Existing Appropriations
☒ Increase Existing Revenues
☒ Increase Costs - May be possible to absorb within agency's budget
     ☐ Yes   ☒ No

☐ Decrease Existing Appropriations
☐ Decrease Existing Revenues
☐ Decrease Costs

☐ Create New Appropriations

Local:
☐ No Local Government Costs
☒ Indeterminate

1. ☐ Increase Costs
    ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue
    ☐ Permissive ☐ Mandatory

2. ☐ Decrease Costs
    ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue
    ☐ Permissive ☐ Mandatory

5. Types of Local Government Units Affected
☐ Towns   ☐ Village   ☐ Cities
☐ Counties   ☐ Others
☐ School Districts   ☐ WTCS Districts

Fund Sources Affected   **Affected Ch. 20 Appropriations**

☒ GPR   ☐ FED   ☒ PRO   ☐ PRS   ☐ SEG   ☐ SEGS

Agency/Prepared By	Authorized Signature	Date
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| **Description** |
| expungement of records of certain crimes |

Assumptions Used in Arriving at Fiscal Estimate

A court may order the expungement of certain crimes committed before the age of 25 from a person's criminal record. Under current law, the expungement order can be made only at sentencing and the record is expunged once the individual completes his or her sentence.

This bill creates a process allowing an individual to petition the sentencing court to expunge the record of a crime from his or her criminal record after he or she completes his or her sentence. The bill does not change the crimes that are eligible for expungement. The bill requires the Department of Justice to redact any record of the crime when responding to a public records request.

The fiscal impact of this provision varies depending on the implementation date of the provision. Based on the department's experience processing similar record transactions, it is estimated that processing each court-ordered expungement in the Crime Information Bureau database will require an average of 1 hour of labor at a cost of $26 per hour. The number of expungements that will be ordered by courts is not known.

The department will incur costs to modify the criminal history background check system and database to identify expunged records and to redact the record from public background checks. In addition, if the department is required to redact records that have been expunged prior to the enactment of the bill, there will be substantial additional costs to review the 1.5 million records in the database to identify those that may be subject to redaction. The department will need to invest significant resources to determine whether an automated review of the records is possible or if records will have to be manually reviewed.

The bill specifies that if a record of a crime is expunged, that crime is not considered for employment purposes and states that employment discrimination because of a conviction record includes requesting an applicant, employee, member, licensee or any other individual supply information regarding records of crimes that have been expunged. The department will incur approximately $10,000 in one-time costs in order to amend and reissue forms, publications and website materials to include information on the employment discrimination provision.

Assembly Amendment 1 limits the number of times an individual may petition the court to expunge a record of a crime to three during his or her lifetime. The amendment allows individuals who have had records of crimes expunged before the effective date of the bill to notify the Department of Justice in a manner determined by the department and requires the department to redact the record after confirming the order of expungement. In order to implement this provision, the department must modify the criminal history background check system to process notifications of prior expungements. In total, the information technology modifications to process notifications of expungements and redact expunged records are estimated to cost $175,000 inclusive of testing and implementation.

Assembly Amendment 2 creates a filing fee of $50 for second petitions for expungement and $100 for third petitions for expungement related to the same record. Assembly Amendment 3 directs that half of the revenue from the filing fee will be deposited in a new appropriation in the Department of Justice to support the costs of programmatic changes and maintenance of a system used to redact expunged court records. The remaining revenue will be deposited by the Department of Administration in the general fund.

The fiscal impact of Amendments 2 and 3 is indeterminate because the department cannot reasonably estimate the number of petitions for expungement, the percentage that will be denied, and the number of individuals who will choose to file a second or third petition if the original request for expungement is denied.

The bill states that if a court does not order a record be expunged, the individual must wait two years from the filing date of the previous petition to file again. The department will incur an estimated $185,000 in one-time

costs to implement the requirements of the bill that will not be reimbursed until individuals file second and third petitions, since there is no filing fee for first petitions.

Whether the department receives sufficient revenue to support the ongoing costs of processing expungements of records of crimes depends on the number of second and third petitions that are filed and whether those petitions are granted:

• The department will incur unreimbursed costs of $26 for each first petition for an expungement that is granted and for each request to redact records expunged prior to the enactment of the bill.

• The department will receive $25 of revenue but will incur $26 of costs to process each second petition for an expungement that is granted; and will receive $25 of revenue but incur no costs for each second petition for an expungement that is denied.

• The department will receive $50 of revenue but will incur $26 of costs to process each third petition for an expungement that is granted; and will receive $50 of revenue but incur no costs for each third petition for an expungement that is denied.

Long-Range Fiscal Implications