

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1048S.01I
 Bill No.: SB 36
 Subject: Crimes and Punishment; Criminal Procedure; Highway Patrol; Courts; Judges
 Type: Original
 Date: February 10, 2023

Bill Summary: This proposal modifies provisions relating to expungement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	Could exceed (\$168,958)	Could exceed (\$202,750)	Could exceed (\$202,750)
Total Estimated Net Effect on General Revenue	Could exceed (\$168,958)	Could exceed (\$202,750)	Could exceed (\$202,750)

*Oversight notes this proposal repeals (\$488.650) the \$250 surcharge the state is currently allowed to collect under §488.650 to file a petition for expungement. Oversight assumes the proposal could reach the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Repeals §488.650 and implements §§43.504, 43.507, and 610.140

Officials from the **Department of Corrections (DOC)** state this legislation may cause an increase in workload for Institutional Records Office Staff, as it requires staff to review documents within files to determine which documents need to be redacted and destroyed. Expunging these records for the specified offenses through destruction, redacting or removal (electronic) will result in an increase in workload for our Institutional Records Officers, as they are the custodian of records for our offender files. This could also affect records kept at Probation and Parole Offices.

While the department assumes a \$0 - Unknown impact, there is some concern for tracking previous medical, mental health, substance use treatment, and education records should the offender return to supervision by the department.

If there should be a significant number of additional requests for expungement or a significant expansion in the number of offenses that could be expunged, it could result in additional costs to the DOC.

Oversight assumes the DOC is provided with core funding to handle a certain amount of activity each year. Oversight assumes the DOC could absorb the costs related to this proposal. However, the DOC may seek additional appropriations if the proposal results in a significant increase in the number of expungements requests.

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume the proposal will have no fiscal impact on their organization. MHP states the revised language in sections 43.504 and 43.507 of this proposal would be in violation of federal dissemination laws, if enacted. Dissemination of criminal history record information to a private entity is not authorized.

Oversight notes the provisions of this proposal repeal the \$250 surcharge the state is currently allowed to collect under §488.650 to file a petition for expungement. Oversight contacted the MHP and was provided with the following number of expungements processed through the Patrol for the previous three (3) calendar years:

2020 – 797
2021 – 957
2022 – 678

For purposes of this fiscal note, Oversight will take an average of these three years ($797 + 957 + 678 = 2,432 / 3 = 811$) and will reflect the loss to General Revenue as could exceed (\$168,958) for FY 2024 (10 months) and could exceed (\$202,750) for subsequent years. Oversight notes these proceeds are payable to the General Revenue Fund.

In response to similar legislation from 2022 (SB 687), officials from the **Office of the State Courts Administrator (OSCA)** stated there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Attorney General’s Office**, the **Department of Revenue**, the **Missouri Department of Transportation**, the **Missouri Office of Prosecution Services**, the **City of Kansas City**, the **City of Springfield**, the **Branson Police Department**, the **Kansas City Police Department**, the **St. Joseph Police Department**, the **St. Louis County Police Department**, and the **Phelps County Sheriff’s Department** assume the proposal will have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these organizations.

Oversight only reflects the responses received from state agencies and political subdivisions; however, other cities, county prosecutors, and local law enforcement were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the Missouri Legislative Information System (MOLIS) database is available upon request.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
<u>Costs – DOC & OSCA – to expunge records</u>	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
<u>Loss – (\$488.650) Repeal of \$250 expungement surcharge</u>	<u>Could exceed (\$168,958)</u>	<u>Could exceed (\$202,750)</u>	<u>Could exceed (\$202,750)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>Could exceed (\$168,958)</u>	<u>Could exceed (\$202,750)</u>	<u>Could exceed (\$202,750)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
<u>Costs</u> – local political subdivisions – to expunge records	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

EXPUNGEMENT OF CRIMINAL RECORDS (Sections 488.650 and 610.140)

This act modifies provisions relating to the number of crimes a person may apply to have expunged from his or her record. A person may seek to expunge all crimes as part of the same course of criminal conduct or as part of an extended course of criminal conduct, subject to limitations as provided in the act.

Under current law, certain offenses, violations, and infractions are not eligible for expungement. This act adds that any offense that at the time of conviction requires registration as a sex offender is not eligible for expungement. Additionally, this act adds that the offenses, or successor offenses, of sexual conduct with a nursing facility resident in the second degree, use of a child in sexual performance, promoting a sexual performance of a child, or cross burning shall not be eligible for expungement.

This act provides that a person may petition for expungement of crimes committed as part of the same course of criminal conduct or as part of an extended course of criminal conduct at least 10 years from the date of any sentence imposed under law.

This act repeals the provision that a court can make a determination at the hearing based solely on a victim's testimony and adds that a court may find that the continuing impact of the offense upon the victim rebuts the presumption that expungement is warranted.

This act also changes the time a person can petition to expunge arrest record for an eligible crime from three years after the date of the arrest to 18 months from the date of the arrest.

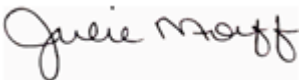
This act provides that a person shall be fully restored to the status he or she occupied prior to the arrests, pleas, trials, or convictions expunged. Additionally, this act modifies provisions allowing a person to answer "no" to an employer's inquiry about any arrests, charges, or convictions of a crime.

Finally, this act repeals provisions relating to the \$250 surcharge to file a petition for expungement.

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

Attorney General's Office
Department of Corrections
Department of Revenue
Department of Public Safety - Missouri Highway Patrol
Missouri Department of Transportation
Missouri Office of Prosecution Services
Office of the State Courts Administrator
City of Kansas City
City of Springfield
Branson Police Department
Kansas City Police Department
St. Joseph Police Department
St. Louis County Police Department
Phelps County Sheriff's Department



Julie Morff
Director
February 10, 2023



Ross Strobe
Assistant Director
February 10, 2023