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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 160
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 160's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Sens. O'Brien and Rulli

Local Impact Statement Procedure Required: Yes

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Highlights

- The bill's expungement and sealing provisions will increase the workload and related annual operating expenses of county and municipal criminal justice systems, including the courts and clerks of courts, probation authorities, and prosecutors, the annual magnitude of which could be significant. The additional work and related operating costs that may be created for the courts of appeals is indeterminate.
- In the case of the state and counties, the \$50 expungement application fee could generate a significant amount of annual revenue that will, to some degree, offset the annual cost of their respective expungement-related duties.
- The annual cost for the Bureau of Criminal Identification and Investigation to remove a potentially significant number of convictions records from the Law Enforcement Automated Data System is uncertain.

Detailed Analysis

Expungement

The bill provides a mechanism for the expungement of records of most misdemeanor and felony convictions¹ that, depending on the category of the offense, are at least 10, 15, or 20 years old. The table below shows the period of time which must expire before an offense may be expunged.

¹ See the LSC bill analysis for a complete list of excluded offenses.

Waiting Period Before a Record is Eligible for Expungement, by Level of Offense	
Offense Level	Eligible After
First degree felony	20 years
Second degree felony	15 years
Third, fourth, or fifth degree felony; any misdemeanor	10 years

A convicted person may apply to the appropriate sentencing court for the expungement of any eligible offense or offenses; the court is required to consider the expungement of each offense as if a separate application had been made for each offense. There is no limit on the number of offenses for which a person may file an application or for which a court may grant an application for a person and order the expungement of a conviction record.

The court may deny applications under certain conditions and must deny applications for expungement of records of an excluded offense. For all other applications, the court is required to hold a hearing, and to notify the appropriate prosecutor who may file an objection to the application prior to the scheduled hearing. The court is permitted to direct a regular probation officer, a state probation officer, or the county department of probation to make inquiries and reports concerning the applicant.

When an application for expungement is made under the bill's mechanism and the court denies the application, the denial is a final appealable order and the applicant may appeal the denial to the court of appeals with jurisdiction over the territory of the court that denied the application.

The combined annual cost for local sentencing courts, probation authorities, prosecutors, and courts of appeal to perform the required work is indeterminate, but the bill makes potentially up to 3.1 million records eligible for expungement, as described below, and, at least in the near term, makes no bill records eligible for sealing sooner than they would be under current law. Given the potential number of new applications, that cost could be significant, in particular for the state's larger more populous urban areas, including the need to hire additional staff. The additional work and related operating costs that may be created for the courts of appeals is indeterminate.

Upon filing an application with a court, the applicant, unless deemed to be indigent, pays a \$50 fee, of which \$30 is forwarded to the state treasury for crediting to the General Revenue Fund, and \$20 is paid to the county general fund. Thus, under the bill, the state and counties generally will gain annual revenue. Given the potential number of expungement-eligible offenses, that revenue amount could be significant, potentially in the millions of dollars annually. It is uncertain as to whether this additional revenue will cover the costs of the expungement work generated for the state and counties. It is important to note that none of the application fee is paid to a municipality with jurisdiction over a noncounty-operated municipal court.

Misdemeanors

The number of persons eligible for records expungement under the bill will consist of two groups with misdemeanor convictions as noted below.

Ongoing eligibility

In 2018, over 190,000 misdemeanor cases heard in municipal and county courts resulted in a plea to the original or a lesser charge. Ten years prior, in 2008, that number was closer to 250,000. This means that, in each future year, up to between roughly 200,000 and 250,000 persons with a misdemeanor conviction may be eligible to apply for expungement under the bill with the appropriate municipal or county court.

Eligibility upon bill's effective date

Based on the number of misdemeanor cases that resulted in a plea agreement annually from 2008 through 2018, the number of cases eligible for expungement upon the bill's effective date would be up to 2.5 million, reduced by an indeterminate number of excluded offenses.

Felonies

The number of persons eligible for records expungement under the bill will consist of two groups with felony convictions as noted below.

Ongoing eligibility

In 2018, over 50,000 felony cases heard in the general division of the courts of common pleas resulted in a plea to the original or a lesser charge. Ten years prior, in 2008, and 15 years prior, in 2003, that number was closer to 60,000. Twenty years prior, in 1998, that number was 45,000. This means that, in each future year, up to between 45,000 and 60,000 persons may be eligible to apply for expungement under the bill with the appropriate court of common pleas.

Eligibility upon bill's effective date

Based on the number of felony cases that resulted in a plea agreement annually from 1998 through 2010, the number of cases eligible for expungement upon the bill's effective date would be up to 600,000 in 2020, reduced by an indeterminate number of excluded offenses.

No bill

The bill's provision removing the two-year waiting period for the sealing of a record related to the entry of a no bill will not create new cases eligible for sealing, but will make certain records eligible for sealing immediately, which could create a short-term, one-time increase in the number of applications and resulting hearings which will level out after the first two years following the bill's effective date.

Bureau of Criminal Identification and Investigation

If the court approves the application for expungement, the court is required to send notices to the Bureau of Criminal Identification and Investigation (BCII), and each other public office that the court has reason to believe may have an official record pertaining to the case.

BCII is required to remove the record from the Law Enforcement Automated Data System (LEADS), and the record may not be used for any purpose, including a criminal background check. The potential annual cost of that work is uncertain.