

Supreme Court of Vermont
Office of State Court Administrator

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TO: Patricia Gabel, Esq., State Court Administrator

FROM: Tari Scott, Chief of Trial Court Operations

RE: Analysis of Potential Fiscal Impact of H.171 (Expungement)

DATE: March 2, 2017

In response to House Bill 171, we have conducted an analysis of the potential fiscal impact on the Judiciary.

Our current data shows that over the last three years, the average number of misdemeanor cases added in the Criminal Division were approximately 12,683. The average number of cases expunged per year over the last three years is 719. This is a mix of deferred sentence expungements and expungements by petition. Our legacy case management system currently reports expungement only if all counts are expunged.

Under Sec.4, 13 V.S.A § 7602 is amended to provide for expungements in a significantly shorter time frame than the previous statute.

(b)(1)(A) reduces the timeframe of ten years to three years that would need to elapse since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms of an indeterminate term of probation that commenced at least three years (down from the current ten years) previously.

Under (c)(1)(A) the timeframe is reduced from at least twenty years to five years to have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

And under (c)(1)(C), the timeframe for a person not being convicted of a misdemeanor during the past three years, down from the current statute of fifteen years.

Under Section 5, 13 V.S.A. § 7605, Denial of petition allows the petitioner the ability to bring another petition to the court each year (current timeframe is five years) unless a shorter duration is authorized by the court.

The work to expunge a case currently by petition and order, is already a multi-step process to ensure that all the necessary check points are completed prior to the actual expungement. (see attachment)

We have estimated a time commitment of approximately 40 minutes per case, over several days or weeks to follow through each step of the process. The actual time from filing to expungement is contingent on the response time from the State, Victims, VCIC and whether or not a hearing is required.

If we look at 75% of the cases qualifying for expungement by petition, (approximately 9,500 cases each year) that would require approximately 6,333 hours of work to complete the expungement process in these cases. Accounting for the number of full time annual work hours (2080 hours) that would require at least three (3) additional staff positions across the state. We have not, in our analysis, taken into account the number of petitions that may be denied and may require additional hearing time before a judge and the refile of the petition to expunge.

In terms of the total cost to the Judiciary, the current average cost of a Docket Clerk B is \$75,000 including the average typical fringe benefits (retirement, health insurance etc). The three additional staff would therefore cost approximately \$225,000 annually. There could be additional costs associated with office space and equipment, but until we know the location of any new employees, it is difficult to estimate these costs.

Because the expungements would be an ongoing process once in statute, these positions would need to be permanent positions as it would not be appropriate to use temporary or contracted services on an ongoing basis.

If the new NG-CMS were able to “automatically expunge” cases from the docketing system, this would still not relieve the need for the staff time to research restitution, tax referrals, unpaid fees and fines, victim and States Attorney response and any potential hearings that may be set.

Other impacts that are non-monetary in nature will include significant computer programming that will be required to better track these cases in our current legacy system until the new NG-CMS is in place.