

Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

Date: March 21, 2019

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H.460 An act relating to sealing and expungement of criminal history records – House Judiciary Recommendation of Amendment – Draft 2.1

<https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Ways%20and%20Means/Bills/H.460/W~Selene%20Colburn~H.460%20As%20Recommended%20Out%20of%20House%20Judiciary~3-15-2019.pdf>

Background

In the 2018 session the Legislature expanded several of the statutes relating to expungement and created a study group (Act 178) to consider expanding the list of qualifying crimes eligible for expungement. The recommendation from the report weighed the competing benefits of concerns of public health, economic development and law enforcement in the State and proposed that eligibility for expungement is expanded to include felony drug possession crimes where there is no evidence of firearms or selling, dispensing or trafficking in the underlying charge as well as no pending charges at the time of petition. It is these charges that are addressed in H.460.

Bill Summary

The bill expands the number of qualifying crimes that are eligible for petitions to seal or expunge, the bill makes alterations to expungement and sealing procedures, and it would exempt motions to expunge or seal from the \$90 court filing fee.

Fiscal Impacts

The number of expungements is estimated to be approximately 1,400 in FY19, which reflects the expansions passed by the Legislature in 2018. The number of expungements reported in FY18 was 719.

The Judiciary has requested 5 additional temporary positions within the context of the 2019 budget adjustment in order to address some of the increased workload surrounding the 2018 expansion of the expungement statutes.

The Vermont Judiciary estimates that there are 41,776 convictions that would be additionally eligible for expungement under H.460. If 1%-3% of these eligible petitions file for expungement the Judiciary would expect to see a range of 420 – 1,250 more petitions. The Judiciary feels they can meet the additional demand generated by H.460 with the 5 additional positions already requested in BAA.

This bill also seeks to exempt motions to expunge or seal from the \$90 court filing fee. It is estimated by the Vermont Judiciary that currently 55% of expungement petitions are already eligible for a waived fee. If petition fee was waived in all of petitions approximately \$69,000 of revenue would have been forgone in FY19.

The increase in anticipated petitions in FY20 in turn increases the amount of revenue that will be forgone by the fee waiver. Depending on the uptake of expungement petitions the forgone revenue in FY20 could range from \$90,000 to \$130,000 (assuming an uptake of 1% and 3% respectively in the newly eligible convictions). It is noted that all of these estimates are based on the FY19 baseline of 1,400 cases which may have been inflated due to the 2018 expungement changes.