

Vermont Legislative Joint Fiscal Office

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Preliminary FISCAL NOTE

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S.7 An act relating to expanding access to expungement and sealing of criminal history records – House Judiciary Recommendation of Amendment – Draft 4.0

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Judiciary/Bills/S.7/Drafts,%20Amendments,%20and%20Other%20Legal%20Documents/S.7~Brynn%20Hare~As%20Recommend%20by%20House%20Committee%20on%20Judiciary~5-14-2021.pdf>

Bill Summary

The bill proposes changes to laws concerning expungement and sealing procedures. The proposed changes include, but are not limited to, increased flexibility for courts to waive certain surcharges as part of expungement/sealing procedures based on ability to pay, an increase of the age limit from 21 to 25 for persons who committed crimes under said age to be eligible to apply for a sealing procedure under juvenile judicial proceedings, and a requirement that the Judicial Bureau and the Dept. of Motor Vehicles (DMV) automatically expunge certain automobile violations two years following satisfaction of judgement stemming from adjudication or conviction.

Background

The Senate-passed version of H.439, the big bill, includes appropriations of federal American Recovery Plan Act (ARPA) funds to aid in the recovery of the state's justice system from pandemic-related impacts and backlogs. Certain state agencies that JFO spoke with regarding S.7 stated that some ARPA funds will be used to address increased demand stemming from prior expungement/sealing legislation and administrative actions. Per these entities, any additional expungement/sealing demands would be very difficult to address in a timely matter without additional resources above and beyond the ARPA funding.

Fiscal Summary

Sec. 2 – This section gives the courts authority to waive surcharges for expungement and sealing procedures when the petitioner demonstrates an inability to pay. These surcharges vary based on when the crime was committed and are added onto other fines and penalties. Proceeds go to the Victims Compensation Special Fund, the Domestic and Sexual Violence Special Fund, and the General Fund. The amounts going to each fund are different for each surcharge in 13 V.S.A. §7282.

It is difficult to predict how a court will use this specific statutory discretion although the Judiciary has indicated in the past that prior to the statutory exemption of most expungement/sealing cases from the \$90 administrative fee the courts typically granted fee

waivers to approximately 55% of petitioners in these cases. If this percentage were to remain consistent for surcharges, then the fiscal impact could be \$100,000 to \$200,000 per year in foregone revenue.

Fiscal Impact: Forgone revenue could be up to \$200,000 annually. The impact to each of the funds described above would be dependent on which surcharges make up the bulk of the foregone revenue total.

Sec. 3 – This section pertains to the juvenile judicial proceeding statute. Under current law, an individual who committed a crime under the age of 21 may petition for and be granted a sealing procedure so long as certain conditions are met, and following notice to parties of record and a hearing. The age limit would be increased to 25 as proposed in sec. 3.

This provision would likely require increased staff time within the Judiciary and within other state agencies that may have been involved in a judicial proceeding. It is unclear what the immediate uptake will be if this provision were to be enacted, but it is possible that involved state parties may request increases for resources in a future yearly budget or budget adjustment if the work cannot reasonably be accomplished with existing resources.

Fiscal Impact: Unknown

Sec. 4 – This section pertains to motor vehicle violations. S.7 identifies a list of motor vehicle violations that are automatically eligible for expungement two years following a satisfaction of judgement. The Judicial Bureau and the DMV would be responsible for performing this work. Per the Judiciary, there are approximately 20,000 of the identified violations committed in Vermont each year. The Judiciary estimates that three (3.0) new full-time equivalent (FTE) positions would be needed to process these expungements on a yearly basis. Each FTE is estimated to cost \$100,000 per year for salary and benefits if authorized by the General Assembly. The DMV believes at this time that this work can be accomplished with existing resources.

Fiscal Impact: \$300,000 of budget need for 3 FTEs within the Judiciary.

Note: This bill does not currently include any appropriations or position authorizations.