



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 264

PRINTER'S NO: 1688

PRIME SPONSOR: Solobay

As amended by A02312

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Expenditure Increase/(Decrease):		
General Fund	*See Analysis	*See Analysis
Revenue Increase/(Decrease):		
General Fund	*See Analysis	*See Analysis
Net Cost/(Savings):		
General Fund	*See Analysis	*See Analysis

OVERVIEW:

House Bill 264, as amended by A02312, further provides for expungements of criminal history records for certain misdemeanor offenses under Title 18 (Crimes and Offenses). If an individual seeks expungement for a misdemeanor or the third degree, he must be free of arrest or prosecution following final release from confinement or supervision for seven years. If an individual seeks expungement for a misdemeanor or the second degree, he must be free of arrest or prosecution following final release from confinement or supervision for 10 years.

Expungements of criminal history records for second and third degree misdemeanors shall not apply in the following circumstances:

- An offense punishable by imprisonment of more than two years.
- Four or more offenses punishable by imprisonment of one or more years.
- A violation relating to simple assault.
- An offense classified as a misdemeanor of the second degree committed when the individual was at least 25 years of age.
- A violation relating to indecent assault.
- A violation relating to sexual intercourse with an animal.
- A violation relating to cruelty to animals.
- A violation of any provision relating to firearms and dangerous articles.
- Any offense where an individual is required to register under Megan's Law.
- A violation relating to driving after imbibing alcohol or utilizing drugs.

- A violation relating to offenses involving danger to the person if the victim was a law enforcement officer engaged in the performance of duty and the perpetrator knew the victim was a law enforcement officer at the time of the offense.

Expungements provided for under House Bill 264 are at the discretion of the court and the court shall consider the following when determining whether to grant a petition for expungement:

- The nature of the offense.
- The nature and disposition of any related charges.
- The impact of the offense upon any victims of the offense.
- Any reasons the Commonwealth may give for wishing to retain the records.
- The petitioner's age, criminal record, and employment history.
- The length of time that has elapsed between the arrest and the petition to expunge.
- The specific adverse consequences the petitioner may endure should expunction be denied.

House Bill 264 also increases the number of days in which the court shall give notice to district attorneys of the county where the original charge was filed of any applications for expungement. Currently, the court has 10 days to give notice and this legislation increases that time frame to 30 days.

Finally, House Bill 264 amends Title 42 (Judiciary and Judicial Procedure) by providing for expungement fees.

This act shall take effect in 60 days.

ANALYSIS:

The exact number of applications for expungement under House Bill 264 is not possible to determine. However, according to the Administrative Office of Pennsylvania Courts (AOPC) there were 1,840 expungement orders for summary offenses since January 2009 (when a new law further providing for summary expungements went into effect). Under this legislation, the Pennsylvania State Police (PSP) and AOPC would have received \$92,000 each as a result of the \$50 expungement fee.

This fiscal note assumes that if the summary expungement law had been in effect for the whole fiscal year, there would be about 3,700 expungement applications. This fiscal note assumes that a similar number of expungement requests for misdemeanor offenses can be anticipated should House Bill 264 be enacted. As a result, both summary expungement requests and misdemeanor expungement requests totaling approximately 7,400 expungement cases that would be brought before the court and eventually expunged by PSP. Using this number of approximately 7,400 expungement requests, both PSP and AOPC could each expect to collect \$185,000 in revenue from expungement fees. Collected expungement fees would be used to cover costs by PSP and AOPC for processing additional cases.

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*