

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 529

PRINTER NO. 854

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

May 19, 2017

PRIME SPONSOR

Senator Wagner

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 529 amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to provide for sealing of criminal records.

Specifically, this legislation does the following:

- Provides a Declaration of Policy that declares that individuals with charges not leading to convictions may be harmed by the maintenance of the criminal record and have a constitutional presumption of innocence, that less violent individuals who have served their court-imposed sentences and remained crime-free long enough to demonstrate their rehabilitation should have access restored to employment, housing, education, and other necessities of life, that a clean slate remedy will create a strong incentive for avoidance of recidivism, provide hope for the alleviation of hardships of having a criminal record by offenders trying to rehabilitate themselves, and save the Commonwealth money that must be spent in the administration of criminal justice when offenders recidivate and that the clean slate remedy should be implemented without cost to the former offender of filing a petition with a court;
- Provides that only criminal justice agencies will have access to misdemeanor criminal records after ten years have passed since the offender's most recent misdemeanor or felony conviction and the offender has satisfied all court-ordered financial obligations;
- Provides that only criminal justice agencies will have access to information relating to an arrest not leading to a conviction;
- Exempts the following classes of offenses from this relief:
 - Offenses in Title 18, Part II, Article B involving danger to the person (e.g., homicide, assault, kidnapping, human trafficking);
 - Offenses in Title 18, Part II, Article D involving offenses against the family (e.g., bigamy, incest, concealing the death of a child, endangering the welfare of a child);
 - Offenses in Title 18, Chapter 61 relating to firearms and other dangerous articles;
 - Sexual offenses that require registration under Title 42, Chapter 97;

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- The following offenses: indecent exposure, failure to comply with registration requirements, weapons or implements of escape, cruelty to animals, corruption of minors; or
- Misdemeanor offenses when there is a felony conviction in the same case.
- Provides that criminal history record information of charges with a final disposition other than conviction shall automatically receive limited access 60 days after entry of the disposition and payment of any court-ordered obligations;
- Provides for a procedure in implementing this legislation;
- Provides for duties of the Administrative Office of Pennsylvania Courts (AOPC), the Pennsylvania State Police (PSP) and courts of common pleas;
- Authorizes the PSP to object to a case as not eligible for limited access under certain circumstances;
- Grants standing to district attorneys or the Attorney General to petition the court to undo the limited access under certain circumstances;
- Requires the court and PSP to undo limited access under certain circumstances;
- Declares that no individual for whom an order of limited access has been issued shall be required to disclose information pertaining to the criminal records that have been sealed, except when requested or required by a criminal justice agency or the Supreme Court, or unless federal law requires consideration of an applicant's criminal history for purposes of employment;
- Provides that criminal records subject to limited access remain available pursuant to a court order in proceedings relating to child custody or protection from abuse;
- Provides that an expunged offense or an offense provided limited access relief may not be considered a conviction that would prohibit the employment of a person under any Pennsylvania law or any Federal law that prohibits employment based on state convictions to the extent permitted by Federal law;
- Provides immunity from liability in a civil action for an employer who employs or engages an individual whose criminal history has been expunged or subjected to limited access when the civil action is based on conduct by the employee that is related to the offense that was subjected to limited access;
- Prohibits a board, commission or department of the Commonwealth from considering criminal records subject to limited access when considering an application for a license, certificate, registration or permit; and
- Provides that PSP and the AOPC shall process the backlog of existing cases in which the provisions of this act are applicable within one year of the effective date of this section.

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This act shall take effect as follows:

- 90 days for purposes of individuals filing a petition for limited access of criminal proceedings eligible for limited access; and
- 270 days for the remainder of the act.

FISCAL IMPACT:

According to the Pennsylvania State Police (PSP), a large portion of the costs to implement this legislation is related to computer programming and application development. A Rough Order of Magnitude estimate (ROM) received from Unisys estimates \$195,000 one-time costs to the PSP in order to address the Clean Slate requirements in this legislation. These costs are related to making the necessary programming changes to the Computerized Criminal History Record Information System (CCHRI) and the Pennsylvania Access To Criminal History," (PATCH) system. These costs are de minimis in the scope of the agency budget and are assumed to be capable of being absorbed within existing fiscal resources of the PSP.

According to the Administrative Office of Pennsylvania Courts (AOPC), they estimate \$50,000 one-time costs to perform their duties under this legislation and have indicated that these costs can be absorbed within the agencies existing fiscal resources.