

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 18** DATE: **April 24, 2007**
STATUS: **As Passed by the Senate** SPONSOR: **Sen. Clancy**
LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting savings**
CONTENTS: **Criminal conviction record sealing mechanism**

State Fiscal Highlights

STATE FUND	FY 2007*	FY 2008	FUTURE YEARS
General Revenue Fund (GRF)			
Revenues	- 0 -	Potential, minimal at most, loss in record sealing application fees	Potential, minimal at most, loss in record sealing application fees
Expenditures	- 0 -	Potential savings in parole operations	Potential savings in parole operations

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

* For the purposes of this fiscal analysis, it is assumed that any of the bill's state fiscal effects would occur sometime after FY 2007.

- **Record sealing revenue fees.** As a result of the bill, the size of the pool of persons eligible to apply to the court to have their records sealed will decrease and the state treasury presumably loses \$30 from each \$50 application fee that would no longer be collected. Although problematic to calculate with much precision at this time, the available evidence at hand suggests that the potential magnitude of that annual loss in state revenues will be somewhere between negligible (\$1,000) and minimal (no more than \$100,000).
- **Adult Parole Authority workload.** As a result of the bill, the Department of Rehabilitation and Correction's Adult Parole Authority (APA), a largely GRF-funded operation, may receive fewer requests to make inquiries and written reports on behalf of certain courts of common pleas. Although such an outcome theoretically reduces the APA's workload and related operating expenses, it may be best to view the bill's effect more in terms of the ability to perform other duties and responsibilities more efficiently and effectively.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2007	FY 2008	FUTURE YEARS
Counties and Municipalities			
Revenues	Potential, minimal at most, loss in record sealing application fees	Potential, minimal at most, loss in record sealing application fees	Potential, minimal at most, loss in record sealing application fees
Expenditures	Potential administrative savings offsetting related revenue loss	Potential administrative savings offsetting related revenue loss	Potential administrative savings offsetting related revenue loss

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Record sealing revenue fees.** Subsequent to the bill's enactment, some offenders that would have applied for the sealing of the record of conviction would be ineligible to do so. As a result, the revenues that might otherwise have been collected in the form of an application fee would not be collected, which means that, in each such instance, a county or municipality loses the \$20 local portion of that fee. As of this writing, the number of offenders that might be affected in any given local jurisdiction appears likely to be relatively small. Assuming that were true, then the amount of application fee revenues that would no longer be collected seems unlikely to exceed minimal. For the purposes of this fiscal analysis, minimal means an annual revenue loss estimated at no more than \$5,000 for any affected county or municipality.
- **Record sealing workload.** If, as a result of the bill, certain offenders do not apply for the sealing of the record of conviction, then the affected county or municipal public officers and employees might experience some lightening of their workload related to the sealing of records. Any resulting savings in operating expenses is difficult to quantify. Arguably, the effect of the bill may be viewed less in terms of traditional budgets and moneys, and more in terms of creating conditions that potentially improve the efficient and effective performance of other duties and responsibilities. As of this writing, it appears that the bill's positive impact on the workload of various local jurisdictions would in all likelihood more than offset the related loss in record sealing application fee revenues.

Detailed Fiscal Analysis

Overview

Existing law sets forth the list of convictions to which the state's existing criminal conviction and bail forfeiture record sealing mechanism does not apply. The bill expands that list to include certain sex offenses: (1) the offense of importuning, and (2) when the victim of the offense was under 18 years of age, the offenses of voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, disseminating matter harmful to juveniles, displaying matter harmful to juveniles, pandering obscenity, and deception to obtain matter harmful to juveniles.

As of this writing, LSC fiscal staff has identified the following information that is germane to ascertaining the bill's fiscal effects on the state and local governments, in particular county and municipal criminal justice systems.

- It appears that the current list of convictions that are not subject to the existing criminal conviction record sealing law does not include some of the convictions that the bill adds to the current list of convictions, includes some of the convictions that the bill adds to the current list of convictions in certain limited circumstances but not in most circumstances, and includes some of the convictions that the bill adds to the current list in all circumstances in which the bill adds them to the list. Arguably then, current law already excludes, in some circumstances, some of the offenses added by the bill.
- There is no data readily at hand that would permit one to easily estimate the number of offenders that would have applied for the sealing of the record of conviction under current law, but, subsequent to the bill's enactment, would no longer be eligible to make such an application. That said, based on largely anecdotal evidence gathered to date, the number of offenders that might have applied but could not under the bill is likely to be a relatively small number in any given local jurisdiction.

Local fiscal effects

Local entities involved in the sealing of official records generally

The officers and employees of local governments, in particular court systems, that are routinely involved in the sealing of an official record are as follows:

- **Clerk of courts.** The clerk receives the request for a sealing, performs administrative tasks to seal the record for the court, and sends notices of the sealing of the records to other local entities, such as law enforcement agencies, that their records need to be sealed or destroyed.

- **Judges.** A judge must review the request for a sealing, and may need to conduct hearings on whether the official record should be sealed.
- **Prosecutor.** A prosecutor must review the request for a sealing, and may choose to challenge that request based on their perception of the public's interests.
- **Probation department.** The probation department will be ordered by the court to perform an investigation to provide information about the requestor's criminal background and history of rehabilitation.
- **Local law enforcement.** Local law enforcement upon notice from the clerk of court is required to remove references to the offender from their arrest records.

Application fee

Under current law, a first offender may generally apply for the sealing of their conviction record: (1) at the expiration of three years after the offender's final discharge if convicted of a felony, or (2) at the expiration of one year after the offender's final discharge if convicted of a misdemeanor. Upon the application to seal a record under current law, the applicant, unless indigent, must pay a \$50 fee. The court forwards \$30 of the fee for deposit into the state treasury to the credit of the General Revenue Fund (GRF), with the balance (\$20) forwarded for deposit into the general revenue fund of the county or municipality as appropriate.

Subsequent to the bill's enactment, some offenders that would have applied for the sealing of the record of conviction would be ineligible to do so. As a result, the revenues that might otherwise have been collected in the form of an application fee would not be collected, which means that, in each such instance, a county or municipality loses the \$20 local portion of that fee. If, as noted above, the number of offenders that might be affected in any given local jurisdiction is relatively small, then the amount of application fee revenues that would no longer be collected seems unlikely to exceed minimal. For the purposes of this fiscal analysis, minimal means an annual revenue loss estimated at no more than \$5,000 for any affected county or municipality.

Operating expenses

If, as a result of the bill, certain offenders do not apply for the sealing of the record of conviction, then the affected county or municipal public officers and employees might experience some lightening of their workload related to the sealing of records. Any resulting savings in operating expenses is difficult to quantify. Arguably, the effect of the bill may be viewed less in terms of traditional budgets and moneys, and more in terms of creating conditions that potentially improve the efficient and effective performance of other duties and responsibilities. As of this writing, it appears that the bill's positive impact on the workload of various local jurisdictions would in all likelihood more than offset the related loss in record sealing application fee revenues.

State fiscal effects

State expenditures: Department of Rehabilitation and Correction

According to the Department of Rehabilitation and Correction's web site, its Adult Parole Authority (APA), which is a largely GRF-funded operation, provides full, partial, or supplementary probation services to 53 of Ohio's 88 counties or more specifically, their courts of common pleas. This raises the question as to how the bill's changes to the sealing of offender records will affect, if at all, the workload and related operating expenses of the APA field staff that provide services to these 53 courts of common pleas. It appears that the nature of the data that would be required to answer this question is not readily available. Thus, the fiscal effects of the bill, if any, on APA operations, in particular its workload and expenditures, are difficult to quantify, and, as noted in the case of local entities involved in the sealing of official records, may manifest themselves more in terms of the ability to perform other duties and responsibilities more efficiently and effectively.

State revenues

Upon the application to seal a record under current law, the applicant, unless indigent, must pay a \$50 fee. The court forwards \$30 of the fee for deposit into the state treasury to the credit of the GRF, with the balance (\$20) forwarded for deposit into the general revenue fund of the county or municipality as appropriate. As a result of the bill, the size of the pool of persons eligible to apply to the court to have their records sealed will decrease and the state treasury presumably loses \$30 from each \$50 application fee that would no longer be collected. Although problematic to calculate with much precision at this time, the available evidence at hand suggests that the potential magnitude of that annual loss in state revenues will be somewhere between negligible (\$1,000) and minimal (no more than \$100,000).

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