150th GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE BILL NO. 37**
SPONSOR:	**Senator Brown**
DESCRIPTION:	**AN ACT TO AMEND TITLE 4, TITLE 10, TITLE 11, AND TITLE 16 OF THE DELAWARE CODE RELATING EXPUNGEMENT OF RECORDS OF ADULT ARREST AND CONVICTION.**

Assumptions:

1. This Act, known as the Adult Expungement Reform Act, becomes effective 180 days after signature by the Governor.
2. This Act allows for an applicant to petition the State Bureau of Identification (SBI) for a record expungement if:
    - Charges have been resolved in favor of the petitioner.
    - A record that includes violations only after the passage of three years.
    - A record that includes one or more misdemeanors, or a combination of one or more misdemeanors and one or more violations after the passage of five years.
3. This Act allows the Judiciary to grant a petition for expungement upon a showing of "manifest injustice" in the following situations:
    - Three years have passed since the date of a single misdemeanor conviction.
    - A person has a single conviction in a felony case, and seven years have passed from the date of conviction or release from incarceration, whichever is later.
    - Seven years have passed since conviction or release from incarceration on misdemeanor domestic violence or misdemeanor conviction with child or vulnerable adult victim.
4. This Act would require the Delaware Criminal Justice Information System (DELJIS) to make significant programming and system modifications to ensure compliance. DELJIS will require specialized staff to make coding changes to over 171 various files, including necessary changes to the Law File, the Charge File, the Offender File, and the Victim File. DELJIS estimates it would require one-time funding of $65,500 to complete these updates.
5. The Act allows for the Department of Justice (DOJ), through the Attorney General or the Attorney General's designee, to have an opportunity to state its position on the expungement petition to the court, and is empowered to seek input from any victim in this case.
6. The DOJ projects that the number of discretionary expungements will increase under this Act resulting in the need for three additional Paralegals and one Administrative Specialist II. The DOJ has indicated one Paralegal in each county would be needed to perform the research necessary for determining a petitioner's eligibility for a Family and/or Superior Court expungement, while the Administrative Specialist would be needed to ensure timely docketing, responses to petitions, and other time-sensitive deadlines that may be imposed.
    - The annual cost for 3.0 FTE Paralegal III's is $204,119, and 1.0 FTE for an Administrative Specialist II is $53,174, for a total recurring cost of $257,293. This includes salaries, health insurance, and other employment costs.
    - An additional one-time operating expense of $1,500 per position, or $6,000 total, is projected for technology and software costs related to the startup of these positions.

7. The SBI is required to make electronic records available to criminal justice agencies to determine whether a person who seeks to participate in the First Offenders Controlled Substance Diversion Program, may obtain probation before judgment disposition, or may participate in a court-supervised drug diversion program that has done so before and had the record expunged.

8. Since 2015, the number of expungement requests has increased significantly. In 2015, the SBI processed 823 expungements. In 2016, due to major legislative changes, SBI processed 1,227 expungements, a 49% increase. In 2017, there was a 64% increase, amount to 2,013 expungements. Lastly, in 2018, 2,206 expungement requests were received. Expungement requests are complex and detailed in nature and require research and coordination among various SBI sections.

    - Presently, the Expungement and Pardon Section is consistently backlogged. Due to deadlines imposed by court orders, the SBI has been utilizing overtime hours to keep pace with the increased workload. The SBI anticipates a significant increase in the number of expungements that would need to be processed as a result of this Act. The SBI would not be able to accommodate any further increases in processing expungements at its current staffing level. In order to implement this Act, the SBI believes that it would need to expand its operations by adding 13.0 FTEs in order to accommodate the anticipated increase of individuals visiting its office location(s) and the expected increase in the receipt of court orders for expungement. The table below details the required positions identified by SBI as follows:

Number of FTE's	Position Title	Total Annual Cost
6.0	Administrative Specialist I	$297,097
2.0	Application Program Managers (Application Programmer)	$120,475
2.0	Criminal History Technician II	$94,524
1.0	Ten Print Examiner (Senior Forensic Print Examiner)	$66,796
1.0	Administrative Specialist III	$54,519
1.0	SBI Supervisor (SBI Criminal Records Manager)	$63,406
	Ongoing Operating Costs, $800 for each position	$10,400
	Total Annual Salary and Operating Costs:	$707,217

    - The total recurring cost related to these positions is $707,217. This includes personnel, health insurance, and other employment costs. An additional one-time operation expense of $2,700 per position, or $35,100 total, is projected for office furniture, technology, and software costs related to the startup of these positions.

9. The Superior Court projects that the number of expungement petitions filed will significantly increase. While the Court is unable to provide precise data regarding the potential number of felony and misdemeanor cases which may fit the criteria set forth in this Act, a review of 2017 criminal disposition data reveals that up to 80,100 petitions could be filed.

10. The Superior Court further believes that due to the complex nature of expungement process, 1.0 FTE Paralegal III would be necessary to handle the research, documentation, scheduling, and other related monitoring for adherence to deadlines to process the anticipated volume of petitions.

    - The annual cost for 1.0 FTE for a Paralegal III is $67,796. This includes salary, health insurance, and other employment costs.

Cost:

	Operating/Ongoing	One-Time
Fiscal Year 2020:	$516,153	$106,600
Fiscal Year 2021:	$1,032,306	
Fiscal Year 2022:	$1,032,306	

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