Department of Legislative Services

Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 244 (Senator McFadden)
        (By Request – Baltimore City Administration)

Judicial Proceedings

Baltimore City - Automatic Expungement of Records - Arrest Without Charge

---

This bill entitles a person who is arrested, detained, or confined in Baltimore City for the suspected commission of a crime, and then is released from the Central Booking facility without being charged with the commission of a crime, to automatic expungement of all police records relating to the matter.

Fiscal Summary

State Effect: General fund expenditures could increase by at least $112,700 in FY 2007 accounting for the bill's October 1 effective date. Future years reflect annualization and inflation.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	$0	$0	$0	$0	$0
GF Expenditure	112,700	135,600	144,000	153,100	162,900
Net Effect	($112,700)	($135,600)	($144,000)	($153,100)	($162,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Any increase in expungements for arrests in Baltimore City from this bill could be handled with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: This bill provides that when a person is arrested, detained, or confined in Baltimore City for the suspected commission of a crime, and then is released from the

Central Booking facility without being charged with the commission of a crime, the person is entitled to automatic expungement of all police records relating to the matter.

The bill requires the law enforcement unit that arrested, detained, or confined the person to search diligently for and expunge each police record it has on the person relating to the matter within 30 days after the person entitled to expungement is released from Central Booking. The law enforcement unit is then required to send a notice of expungement and all relevant facts about the expungement and the underlying matter to: (1) the Central Repository; (2) Central Booking; (3) each law enforcement unit believed to have a police record about the underlying arrest, detention, or confinement of the person; and (4) the person entitled to expungement. Any law enforcement entity contacted is required, within 30 days, to search diligently for and expunge each police record it has about the person pertaining to the underlying matter, and send a written notice of completion to the person entitled to expungement.

Current Law: A person who is arrested, detained or confined by a law enforcement unit for the suspected commission of a crime, and then is released without being charged with the commission of a crime can have police records relating to the matter expunged by request. In order to have the police records expunged, the person must send a written notice of facts relating to the matter to a law enforcement unit the person believes may have a police record about the matter. The person cannot give this notice before the statute of limitations expires on all tort claims the person may have arising from the incident, unless the person attaches to the notice a written general waiver and release, in legal form, of all tort claims that the person has arising from the incident. The notice and waiver are not expungable, and the law enforcement unit is required to keep the notice and waiver until all applicable statutes of limitation expire. The person requesting expungement must provide the notice within eight years after the date of the underlying incident.

Law enforcement units that receive timely notices are required to promptly investigate and verify the facts in the notice. If the law enforcement unit finds that the facts are true, they have 60 days after receipt of the notice to search diligently for and expunge police records they have on the person pertaining to the underlying incident. The law enforcement unit then has to send a copy of the notice and their verification of the facts in the notice to: (1) the Central Repository; (2) each booking facility or law enforcement unit they believe may have a police record about the arrest, detention, or confinement of the person; and (3) the person requesting expungement. Entities contacted by the original law enforcement unit have 30 days to search diligently for and expunge police records they have about the underlying matter.

If the law enforcement unit that received the original notice believes the person is not entitled to expungement, the unit must inform the person in writing of the denial of the expungement request and the reasons behind the denial within 60 days after receipt of the

notice. A person denied expungement can apply for an order of expungement in the District Court that has proper venue against the law enforcement unit within 30 days after written notice of the denial is mailed or delivered to the person. The District Court then notifies the law enforcement unit of the application and holds a hearing, to which the law enforcement unit is a party. The District Court can order expungement or deny the application. Each party to the proceeding is entitled to appellate review provided for civil cases from the District Court.

The District Court charges a $30 fee for petitions for expungement. However, if a person is released without charge, courts will not have a record of the arrest. Persons who are released without charge must contact law enforcement units to request expungement and are not subject to the $30 District Court fee. The Baltimore City Police Department does not charge a fee for an expungement after being released without charge.

Background: All persons arrested in Baltimore City are taken to the Centralized Booking Intake Facility (CBIF) for charging and processing.

State Expenditures: State expenditures would increase depending on the number of individuals released from CBIF without charge. CBIF reports 98,845 bookings in 2005. Of this group, 23,606 were released without charge. The Maryland Criminal Justice Information System (CJIS) reports that on average, 12,000 people are arrested and released without charge in the State per year. A breakdown by jurisdiction was not made available to the Department of Legislative Services. Possible reasons for this discrepancy are: (1) incomplete reporting of release without charge incidents at CBIF to CJIS; and (2) the CBIF figure includes events that are not "reportable events" to CJIS.

CJIS currently processes 16,000-17,000 expungements per year with an eight-member staff. CJIS does not receive any fees for expungements.

According to the *2004 Uniform Crime Report*, 32.7% of the total arrests in Maryland occurred in Baltimore City. Extrapolating this percentage onto the statewide estimate from CJIS would result in 3,924 additional expungements for CJIS. This would require three additional expungement clerks.

Accordingly, general fund expenditures could increase by an estimated $112,682 in fiscal 2007, which accounts for the bill's October 1, 2006 effective date. This estimate reflects the cost of hiring three expungement clerks to perform 3,924 additional expungements per year. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	$97,772
Operating Expenses	14,910
Total FY 2007 State Expenditures	**$112,682**

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Centralized Booking Intake Facility

It is assumed that since this bill requires automatic expungements for persons released from CBIF without being charged with the commission of a crime, CBIF will not charge a fee for these expungements.

Since the State operates CBIF, there could be a one-time increase in State expenditures to reprogram CBIF computers. There are insufficient data at this time to reliably estimate this reprogramming cost.

Local Effect: The Baltimore City Police Department advises that any expungements of its records required by this bill could be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 438 (Delegate Marriott, *et al*.) (By Request – Baltimore City Administration) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2006
ncs/hlb   Revised - Updated Information - March 9, 2006

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510