



## Department of Public Safety and Correctional Services

### Office of the Secretary Office of Government and Legislative Affairs

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**BILL: HOUSE BILL 83**

**POSITION: LETTER OF INFORMATION**

**EXPLANATION:** This bill will define automatic expungement and require the automatic expungement, including partial expungement, of certain records when certain circumstances are met.

### COMMENTS:

- The Department of Public Safety and Correctional Services (DPSCS) houses the Criminal Justice Information System (CJIS) which is the repository for law enforcement to access criminal history record information, fingerprints, etc., and provides background checks to statutorily and regulatory authorized entities.
- HB 83 will require the partial expungement of an individual's record, meaning expunging an eligible charge from a group of charges arising out of the same conviction.
  - When an individual is charged, all charges are included in the record, creating a unit of charges. If the individual has multiple charges, the expungement of one charge cannot be completed. It is not technically possible.
  - Currently, a charge is not eligible for expungement if the charge is part of a conviction in a group of convictions and not all of the convictions are eligible for expungement.
- Requiring partial expungement for all criminal history records, where the defendant was charged with one or more other crimes in the same case, regardless of the other charge or charges, would require additional staff and significant alterations to the CJIS system. The Department conservatively estimates this bill would cost \$1,042,929 in the first year, and exceed \$682,000 each year thereafter.
- The current process for expungements are staff intensive and require exhaustive manual research by staff of the Department's Information, Technology and Computer Division (ITCD). Once received from the Court, staff manually input the information from the expungement order

into the expungement tracking system. After the information has been verified with various other criminal history record systems, the information can then be removed, and a Certificate of Compliance issued.

- CJIS is currently unable to remove a charge from a unit to expunge it. The Department would need to make significant changes to the criminal history record systems in order to bifurcate the dissemination of partially expunged records. Specifically, ITCD would have to reprogram its systems, as discussed below in order to filter which records are limited to the criminal justice units and which records can be fully shared with non-criminal justice units.
  - When a partial expungement court order comes in, the staff of the Expungement Unit within ITCD/CJIS must manually research the data (demographics and arrest event including the disposition) from the court order.
  - Once the information is located, it then has to be confirmed, if the event is eligible for expungement according current laws.
  - If CJIS has concerns about the validity of the order for expungement, then that information is shared back to the courts.
- As previously stated, the Department would need to make substantial program changes to the CJIS system and hire additional staff to process requests and ensure required records are being limited to criminal justice agencies and not otherwise shared, costing the Department \$1,042,929 in the first year, and exceed \$682,000 each year thereafter.

**CONCLUSION:** The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it considers HB 83.