



**Legislative
Council Staff**
Nonpartisan Services for Colorado's Legislature

Initiative # 131

INITIAL FISCAL IMPACT STATEMENT

Date: December 31, 2019 **Fiscal Analyst:** Aaron Carpenter (303-866-4918)

LCS TITLE: EXPUNGEMENT OF ELIGIBLE CRIMINAL RECORDS

Fiscal Impact Summary		FY 2020-21	FY 2021-22
Revenue	Cash Fund	\$1,621,854	\$3,243,708
	Total	\$1,621,854	\$3,243,708
Expenditures	General Fund	\$2,232,683	\$3,893,665
	Cash Fund	\$1,621,854	\$3,243,708
	Total	\$3,854,537	\$7,137,373

***Disclaimer.** This initial fiscal impact statement has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the ballot information booklet (Blue Book) if new information becomes available.*

Summary of Measure

This measure creates a new expungement process for individuals who have completed their criminal sentence, were not convicted of a crime, or were granted clemency. Expungement of records applies retroactively. The measure establishes "expungement periods", which are periods of time that an individual must wait before they have their record expunged after completion of their sentence. In addition, the measure establishes a fee, called an "expungement fee", that must be paid when an individual is convicted of a crime. If an individual cannot pay the fee, interest will accrue at a rate of 5 percent per year. If an individual is found to be indigent by a court, the expungement fee must be waived and an individual will immediately or following their release from incarceration, enter into a life skills development program that is established in the Department of Public Safety. The measure also establishes what crimes are eligible for expungement, how long the expungement period is for each crime, and what the expungement fee is for that crime.

The measure specifies the programs, program funds, and oversight boards that are funded through the expungement fee. These programs include both existing and newly created programs in multiple agencies.

Assumption

Based on Judicial data, this fiscal impact statement assumes that in the first full year of implementation, there will be 81,388 cases that are retroactively eligible for expungement for which no expungement fee is required. In addition, it is assumed that there will 16,275 cases each year that will become eligible for expungement. Further, 75 percent of individuals convicted are

assumed to be indigent and will not be required to pay a fee. Finally, it is assumed that the majority of custodians of records adhere to the law and therefore, any impact from the crime of not destroying records will be minimal.

State Revenue

Under the measure, state cash fund revenue will increase by \$1.6 million in FY 2020-21, and by \$3.2 million in FY 2021-22, as shown in Table 2 below. The estimated number of cases is based on case data provided by the Judicial Department and is based on the assumed indigent rate referenced above. Table 2 also provides assumed collection rates based on Judicial collection data for existing fees and fines. FY 2020-21 is prorated for a January 1st start date. This fiscal impact statement does not provide an estimate on how much interest will be collected from unpaid fees.

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Table 1
Revenue from Initiative #131

Fiscal Year	Fee paid	Number Affected	Collection Rate	Judicial Collection Total
FY 2020-21	\$250	78	6%	\$1,170
	\$350	274	6%	\$5,754
	\$500	4,923	6%	\$147,690
	\$750	432	6%	\$19,440
	\$1,000	5,493	6%	\$329,580
	\$1,500	110	4%	\$6,600
	\$2,000	940	4%	\$75,200
	\$2,500	2,626	4%	\$262,600
	\$3,000	1,775	4%	\$213,000
	\$4,000	27	4%	\$4,320
	\$5,000	3,581	3%	\$537,150
\$7,500	86	3%	\$19,350	
FY 2020-21 Total				\$1,621,854
FY 2021-22	\$250	156	6%	\$2,340
	\$350	548	6%	\$11,508
	\$500	9,846	6%	\$295,380
	\$750	864	6%	\$38,880
	\$1,000	10,986	6%	\$659,160
	\$1,500	220	4%	\$13,200
	\$2,000	1,880	4%	\$150,400
	\$2,500	5,252	4%	\$525,200
	\$3,000	3,550	4%	\$426,000
	\$4,000	54	4%	\$8,640
	\$5,000	7,162	3%	\$1,074,300
\$7,500	172	3%	\$38,700	
FY 2021-22 Total				\$3,243,708

State Expenditures

In FY 2020-21, state expenditures will increase by an estimated \$3.9 million and by \$7.1 million in FY 2021-22 as described in more detail below.

**Table 3
Expenditures Under Initiative #131**

Cost Components	FY 2020-21	FY 2021-22
Judicial Department		
Personal Services	\$323,073	\$682,416
Operating Expenses	\$9,450	\$16,605
Capital Outlay Costs	\$43,400	-
IT Services	\$311,040	-
Contract Probation Staff	\$169,637	-
Other Costs	\$91,841	\$194,519
FTE – Personal Services	5.8 FTE	12.3 FTE
Judicial (Subtotal)	\$948,441	\$893,540
Department of Public Safety		
Personal Services	\$47,216	\$134,302
Operating Expenses	\$1,330	\$3,040
Capital Outlay Costs	\$6,200	-
Life Skills Program	\$1,780,839	\$3,561,677
Other Costs	\$16,306	\$47,159
FTE – Personal Services	1.1 FTE	3.2 FTE
DPS (Subtotal)	\$1,851,891	\$3,746,178
Program Funding		
Expenditure of Fee Revenue*	\$1,054,205	\$2,497,655
Program Funding (Subtotal)	\$1,054,205	\$2,497,655
Total	\$3,854,537	\$7,137,373
Total FTE	6.9 FTE	15.5 FTE

* a portion of this cost can be used to cover costs associated with the Judicial Department and Life Skills Program.

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Judicial Department. Judicial Department expenditures are expected to increase by \$948,441 in FY 2020-21 and by \$893,540 in FY 2021-22, as described below. It is estimated that \$324,371 in FY 2020-21 and \$259,497 in FY 2021-22 will come from cash funds created by the bill to help cover administration costs; the remainder is from the General Fund.

Personal services, operating, capital outlay, and other costs. The initiative requires 4.0 FTE, to expunge newly eligible cases and retroactively eligible cases in FY 2020-21 based on the assumed number of retroactive and future eligible cases. The 4.0 FTE is reduced to 2.3 FTE in the second year due to the assumption that the initial influx of retroactive cases will be expunged half-way through the year. After that, it is estimated that 1.0 FTE will be necessary and ongoing to expunge newly eligible cases or any late retroactive cases.

In addition to FTE for expunging records, 10.0 FTE for additional collection staff and support staff is necessary to ensure that individuals pay the expungement fee. Duties for these staff members include creating payment plans, doing interest assessments, monitoring new cases, and enforcing the new fee.

Personal services cost includes salary and benefit payments, operating expenses includes costs for supplies, and capital outlay costs includes office equipment costs such as furniture and a computer. Other personnel related costs include costs for employee insurance and supplemental retirement costs. Costs in FY 2020-21 are prorated for a January 1st start date and the General Fund payday shift.

IT Services. In FY 2020-21 only, expenditures in the Judicial Department will increase by \$311,040 in order to develop new IT systems in order to track expungement fee payments and interest. It is estimated that this work will require 4 contractors working for 18 weeks at a rate of \$108 per hour.

Contract Probation Staff. To expunge records by the deadline laid out in the measure, the Probation Division in the Judicial Department will need to hire contract worker for six months at an estimated cost of \$169,637. This increases expenditures only occurs in FY 2020-21.

Department of Public Safety. The measure will increase expenditures in the Department of Public Safety by \$1.9 million in FY 2020-21 and 3.7 million in FY 2021-22, as described below.

Personal services, operating, and capital outlay, other costs. The initiative is expected to require 2.7 FTE in FY 2020-21 to conduct background checks on all eligible cases for expungement. This amount is prorated due to the January 1st start date and the General Fund payday shift. In FY 2021-22, 3.2 FTE is necessary for background checks based on the assumed number of retroactive and future eligible cases. Personal services cost includes salary and benefit payments, operating expenses includes costs for supplies, and capital outlay cost includes office equipment such as furniture and a computer. Other personnel related costs include costs for employee insurance and supplemental retirement costs.

Life Skills Program. The initiative is expected to increase expenditures in the Public Safety by \$1.8 million in FY2020-21 and \$3.6 million in FY 2021-22, to establish a Life Skills Program. This

amount is based on the current budgeted amount for the Department of Public Safety to run the Juvenile Diversion Program. Of this amount, it is estimated that \$162,185 in FY 2020-21 and \$324,371 in FY 2021-22 will be covered through the Life Skills Development Cash Fund created in this initiative.

Programs funded by expungement fee. State expenditures in a variety of agencies will increase by \$1.1 million in FY 2020-21 and by \$2.5 million in FY 2021-22. The exact expenditure amount to each program and department will depend on the amount specified in the measure from expungement fee collections. For new programs that are created in this initiative, costs will increase in order to hire a new program coordinator, who must travel around the state and meet with recipients, as required by the initiative. Of the amount allocated for each new program, it is estimated that \$45,092 in FY 2020-21 and \$76,131 in FY 2021-22, will be required for these FTE and travel costs. For existing programs, funding levels and expenditures will increase. This fiscal impact statement assumes that any additional staff requirements will be requested through the budget process. This does not include any costs for additional lease space, if necessary. This impact statement assumes that costs associated with the various programs will be covered by cash fund sources.

Other department workload. Starting in FY 2020-21, workload will increase to expunge records in multiple agencies. This fiscal impact statement assumes that this workload can be accomplished within existing appropriations, but expenditures may increase depending on the number of cases needing to be expunged from each department's records. In addition, this fiscal impact statement assumes that state departments have the technological capability to expunge records. If any adjustments to technology are necessary, expenditures will also increase.

Local Government Impact

Starting in FY 2020-21, revenue and expenditures will increase for local governments. Revenue will increase due expungement fee revenue being earmarked for distribution to local county treasurers. Expenditures will increase in order to expunge records and to hold additional court hearings.

Economic Impact

The measure may impact the state economy in two main ways. First, to the extent expungement of criminal records increases employment opportunity for persons previously convicted of a crime, personal income and spending in the economy will increase by these individuals. However, these gains may be offset by reduced employment among persons in other segments of the population who would have otherwise been employed in the same positions. Second, by mandating that new expungement fees be paid by all persons convicted of a crime, with exceptions for indigency, the measure increases the debt payment obligations by persons convicted of a crime, which will reduce spending elsewhere in the economy. Overall, the economic impact of the measure is indeterminate.

Effective Date

If approved by voters at the 2020 general election, this measure takes effect upon proclamation of the Governor, no later than 30 days after the official canvass of the vote is completed.

State and Local Government Contacts

Corrections	Counties	District Attorneys	Human Services
Judicial	Law	Local Affairs	Information Technology
Municipalities	Natural Resources	Public Safety	Revenue
Secretary of State Education	Sheriffs	Military Affairs	Higher Education

Abstract of Initiative 131: EXPUNGEMENT OF ELIGIBLE CRIMINAL RECORDS

The abstract includes estimates of the fiscal impact of the proposed initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of December 31, 2019, identifies the following impacts:

State revenue. Initiative #131 increases state cash fund revenue by \$1.6 million in FY 2020-21 and by \$3.2 million in FY 2021-22 by charging expungement fees to persons convicted of certain crimes.

State expenditures. Initiative #131 increases state expenditures by \$3.9 million and by \$7.1 million in FY 2021-22, primarily in the Judicial Department and the Department of Public Safety. In addition, workload will increase in various agencies to expunge records.

Local government impact. Revenue from the state expungement fee will be shared with local governments and expenditures will increase to expunge records held by local governments.

Economic impacts. The measure may impact the state economy in two main ways. First, to the extent expungement of criminal records increases employment opportunity for persons previously convicted of a crime, personal income and spending in the economy will increase by these individuals. However, these gains may be offset by reduced employment among persons in other segments of the population who would have otherwise been employed in the same positions. Second, by mandating that new expungement fees be paid by all persons convicted of a crime, with exceptions for indigency, the measure increases the debt payment obligations by persons convicted of a crime, which will reduce spending elsewhere in the economy. Overall, the economic impact of the measure is indeterminate.