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**FISCAL IMPACT STATEMENT**

**LS 6819**

**BILL NUMBER:** HB 1230

**NOTE PREPARED:** Dec 22, 2006

**BILL AMENDED:**

**SUBJECT:** Expungement of Certain Felony Conviction Records.

**FIRST AUTHOR:** Rep. Summers

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill allows a sentencing court to expunge the records of certain felony convictions committed before a person was 25 years of age if 20 years have passed since: (1) the completion of the person's sentence; and (2) the satisfaction of any other obligations imposed on the person as a part of the sentence.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** *Summary* - The Indiana State Police (ISP) maintain the criminal history data base. Any additional staff and computer time would likely be covered within the existing level of resources.

*Background* – Under current law, conditions exist where courts can seal arrest records from disclosure and order limited criminal history information to be either destroyed or restricted.

(1) Arrest Records – IC 35-38-5-1 allows a person to petition a court to expunge a person's arrest record when no criminal charges are filed against the individual; or all criminal charges filed against an individual are dropped because of a mistaken identity, no offense was in fact committed, or no probable cause existed. When an expungement is granted, state law prohibits any information concerning the arrest from being placed or retained in any state central repository for criminal history information or in any other alphabetically arranged criminal history information system maintained by a local, regional, or statewide law enforcement agency.

(2) Limited Criminal History – IC 35-38-5-5 mandates the Indiana State Police to limit access to a

person's limited criminal history by noncriminal justice agencies if more than 15 years have elapsed between the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime. The person with a prior criminal conviction must petition the Indiana State Police. If the conditions are met, the ISP may not release limited criminal history to noncriminal justice agencies except if the person volunteered to provide services for children who are being placed, matched, or monitored by a social services agency or a nonprofit corporation if the person is being sought by the parent locator service of the Child Support Bureau of the Department of Child Services.

*Data Available* – Between 1997 and 2004, 130 persons were granted pardons for an average of 16 per year.

No information was available on the number of criminal convictions where sentences have been vacated or findings of guilt have been set aside.

The Indiana State Police report the following information on criminal history records that have access to limited criminal history.

<b>Criminal History Files Maintained by the Indiana State Police</b>		
Not Limited	1,930,946	99.997%
Limited Access for Non-Criminal Justice Agencies	64	0.003%
Total Files	<u>1,931,010</u>	

ISP staff also report that they receive between one and three requests each month to limit access for noncriminal justice agencies.

**Explanation of State Revenues:** *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** This bill would likely have a minimal impact on trial courts. Any added costs to the state court system will depend on the frequency of petitions filed by ex-offenders.

*Background* – Under current law, an individual has no legal foundation to petition the court to expunge the records of an arrest unless no criminal charges were filed, all criminal charges were dropped, the individual had been mistaken for another person, no offense had been committed, or there was an absence of probable cause.

This bill would permit an individual in this situation to petition the court to expunge the arrest records if certain other conditions are met. The individual would file this petition in civil court.

The added workload for a court would depend on whether the judge accepts or denies the petition. If the court accepts the petition, then the court would likely hold a hearing to determine whether the individual has fulfilled the conditions specified in the bill concerning employment, community service, family obligations, and victim restitution.

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**State Agencies Affected:** Indiana State Police.

**Local Agencies Affected:** Trial courts, Local law enforcement agencies.

**Information Sources:** Indiana State Police.

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