

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING REQUIRING A CONVICTION RECORD FOR A MARIJUANA OFFENSE THAT WOULD HAVE BEEN LEGAL UNDER SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION TO BE SEALED WHEN A PERSON APPLIES FOR THE RECORD SEALING.

Prime Sponsors: Sens. Ulibarri and Marble
Reps. Singer and Melton

JBC Analyst: Carolyn Kampman
Phone: 303-866-2061
Date Prepared: May 1, 2014

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/30/14.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
XXX	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Senate Judiciary Committee Report (04/30/14) amended the bill in two ways:

- The bill, as introduced, allows anyone convicted of a marijuana-related offense that would have been legal upon the adoption of Amendment 64 to petition the court to have the conviction sealed. The Report limits the relevant marijuana-related offenses to: (a) knowingly cultivating, growing, or producing a marijuana plant (or allowing that to occur on land the person owns or controls) if the offense involves six or fewer plants; and (b) possessing not more than two ounces of marijuana.
- The Report requires the defendant to pay the filing fee and provide notice of the petition to the district attorney. If the district attorney objects to the petition, requires the court to set the matter for hearing and to decide the petition after considering the factors listed in current law concerning the sealing of conviction records.

The estimated state revenue and state expenditure impacts described in the attached Fiscal Note are still reasonable for the bill, as amended by the Report. However, the Fiscal Note indicates that the bill could reduce workload for district attorneys. The Report makes it more likely that the bill could increase workload for district attorneys.

In addition, based on information provided after the attached Fiscal Note was prepared, it is estimated that the Department of Public Safety will receive a total of \$139,900 in FY 2014-15 and

SB14-218

JBC Staff Analysis

\$33,576 in FY 2015-16 based on a fee of \$27.98 per petition and the assumption that 5,000 petitions will be approved in FY 2014-15 and 1,200 will be approved in FY 2015-16. This revenue will be credited to the CBI Identification Unit Cash Fund and used to cover the costs of sealing conviction records. The Department of Public Safety will require \$122,445 and 0.9 FTE in FY 2014-15 and \$25,393 and 0.2 FTE in FY 2015-16, including centrally appropriated costs. The following table summarizes the updated fiscal impact of the bill.

Updated Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	<u>at least \$1,759,900</u>	<u>at least \$422,376</u>
General Fund	5,000	1,200
Cash Funds	1,754,900	421,176
State Expenditures	<u>at least \$350,857</u>	<u>at least \$59,341</u>
General Fund	205,965	29,223
Cash Funds	115,270	18,841
Centrally Appropriated Costs**	29,622	11,277
FTE Position Change	2.9 FTE	0.6 FTE
Appropriation Required: \$205,965 General Fund (or cash funds) - Judicial Department (FY 2014-15); \$115,270 cash funds - Department of Public Safety (FY 2014-15).		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation.

Legislative Council Staff agrees with this updated fiscal impact.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001 OR J.002	Staff-prepared appropriation amendments - two options

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating \$205,965 General Fund and 2.0 FTE to the Judicial Department for FY 2014-15, and \$115,270 cash funds from the CBI Identification Unit Cash Fund and 0.9 FTE to the Department of Public Safety for FY 2014-15.

J.002 Staff has prepared amendment **J.002** (attached) to make the same appropriations as in J.001, except that the \$205,965 appropriation to the Judicial Department is from cash funds in the

Judicial Stabilization Cash Fund rather than the General Fund. As indicated on page 4 of the attached Fiscal Note, the Judicial Department expenditures could be covered by the fees that are paid by individuals who petition the court to have a conviction record sealed; the majority of the fee revenue will be credited to the Judicial Stabilization Cash Fund.

The Committee should adopt J.001 or J.002, but not both.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2014-15 based on the March 2014 Office of State Planning and Budgeting revenue forecast. The budget package allocates \$20.0 million General Fund to be available to fund 2014 legislation, and leaves approximately \$7.9 million General Fund unallocated. Thus, the General Assembly could appropriate up to \$26.2 million General Fund to fund 2014 legislation and maintain a 6.5 percent General Fund reserve. This bill requires a General Fund appropriation of \$205,965 for FY 2014-15, and would thus reduce the excess General Fund reserve. *[If amendment J.002 is adopted, this bill will not have a General Fund impact.]*