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FISCAL NOTE

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Prime Sponsors: Sen. Moreno Bill Status: Senate Judiciary
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Bill Topic: RECORD SEALING MENACING AND 3RD DEGREE ASSAULT

- Summary of Fiscal Impact: State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill allows a person convicted of misdemeanor menacing or third-degree assault to petition the court to have the conviction record sealed under certain circumstances. This bill increases state revenue, expenditures, and workload. Local government workload is also increased. The revenue and workload impacts continue in future years.

Appropriation Summary: For FY 2018-19, this bill requires a cash fund appropriation of \$23,543 to the Department of Public Safety.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1. State Fiscal Impacts Under SB 18-072

Table with 5 columns: Category, Sub-category, FY 2018-19, FY 2019-20, FY 2020-21. Rows include Revenue (Cash Funds, Total), Expenditures (Cash Funds, Centrally Appropriated, Total, Total FTE), and Transfers.

## **Summary of Legislation**

This bill allows a person convicted of misdemeanor menacing or third-degree assault to petition the court to have the conviction record sealed, if the crime did not involve domestic violence and certain conditions are met. The conviction record can be sealed, if the petition is filed at least ten years after the final disposition of the all criminal proceedings or release from supervision, and if the petitioner has not have been charged or convicted of any felony, misdemeanor, or traffic offense in the same time span. Hearing and record sealing procedures are specified in the bill.

## **Background and Assumptions**

There have been approximately 8,500 convictions of menacing or third degree assault over the last three years that did not involve domestic violence, which amounts to approximately 2,800 convictions per year. In FY 2016-17, 352 petitions to seal criminal convictions were filed with the courts. Under current law, petitions may be made to seal various misdemeanor convictions such as petty offenses not involving domestic violence, municipal offenses, and marijuana use or possession offenses that are no longer a crime.

Because the record sealing petition option created under this bill cannot be requested until at least ten years after the criminal proceedings or the offender was released from supervision and the offender may not have been charged or convicted of another crime in that time span, this fiscal note assumes a small percentage of offenders will be eligible to have their record sealed. Conservatively it is assumed that 5 percent or 140 of the 2,800 annual convictions will be eligible for sealing these records, per year, once sufficient time has passed. However, the number of petitions initially received is expected to be 20 percent of the annual convictions or 560 in FY 2018-19 and 10 percent or 280 in FY 2019-20. To the extent that more or less petitions are received in these initial years, it is assumed that the Judicial Department and Department of Public Safety (DPS) will request any necessary appropriations adjustments through the annual budget process.

## **State Revenue**

Beginning in FY 2018-19, this bill increases state cash fund revenue from fees.

**Fee impact on record sealing fees.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. To have a criminal record sealed, a record sealing fee of \$27.98 must be paid to the Colorado Bureau of Investigation and a civil filing fee of \$224 must be paid to the Judicial Department. Table 2 estimates the impact of allowing misdemeanor menacing or third degree assault convictions to be sealed and assumes 560 requests in FY 2018-19, 280 requests in FY 2019-20, and 140 requests in FY 2020-21 and each year thereafter. These fee amounts are estimates only, actual fee impacts depend on the number of petitions received.

**Table 2  
Estimated Revenue Impact under SB 18-072**

<i>Fiscal Year</i>	<i>Type of Fee</i>	<i>Current Fee</i>	<i>Number Affected</i>	<i>Total Fee Impact</i>
FY 2018-19	CBI record sealing fee- Public Safety	\$27.98	560	\$15,669
	Record Sealing Filing Fee- Judicial	\$224	560	\$125,440
<b><i>FY 2018-19 Total</i></b>				<b><i>\$141,109</i></b>
FY 2019-20	CBI record sealing fee- Public Safety	\$27.98	280	<b><i>7,834</i></b>
	Record Sealing Filing Fee- Judicial	\$224	280	<b><i>\$62,720</i></b>
<b><i>FY 2019-20 Total</i></b>				<b><i>\$70,554</i></b>
FY 2020-21 and thereafter	CBI record sealing fee- Public Safety	\$27.98	140	<b><i>3,917</i></b>
	Record Sealing Filing Fee- Judicial	\$224	140	<b><i>\$31,360</i></b>
<b><i>FY 2020-21 Total</i></b>				<b><i>\$35,277</i></b>

**TABOR Refund**

The bill increases state cash fund revenue subject from fees subject to TABOR by \$141,109 in FY 2018-19, and \$70,554 in FY 2019-20. State revenue is not currently expected to exceed the TABOR limit and no refund is required. Therefore, the bill is not expected to impact TABOR. However, refunds in future years when the state next collects a TABOR surplus will be increased.

**State Expenditures**

This bill increases state cash fund expenditures by \$25,220 and 0.5 FTE in FY 2018-19 and by \$8,746 and 0.2 FTE in FY 2019-20 in the Department of Public Safety. Workload in the Judicial Department is also increased. These impacts are identified in Table 3 and described below.

**Table 3  
Expenditures Under SB 18-072**

<b>Cost Components</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Public Safety</b>		
Personal Services	\$18,365	\$8,014
Operating Expenses and Capital Outlay Costs	\$5,178	-
Centrally Appropriated Costs*	\$1,677	\$732
FTE – Personal Services	0.5 FTE	0.2 FTE
<b>Total</b>	<b>\$25,220</b>	<b>\$8,746</b>
<b>Total FTE</b>	<b>0.5 FTE</b>	<b>0.2 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Public Safety.** This bill increases Colorado Bureau of Investigation expenditures and workload in the DPS beginning in FY 2018-19. A data specialist can process and seal 1,167 record removal requests per year, resulting in 0.5 FTE for 560 requests in FY 2018-19, and 0.2 FTE for 280 requests in FY 2019-20. Beginning in FY 2020-21, 140 requests are expected and this workload can be accomplished within existing appropriations.

**Judicial Department.** By allowing petitions to be filed with the court to seal certain misdemeanor menacing and third-degree assault charges, this bill increases trial court workload. This workload increase is below the threshold required for a Judicial Officer and can therefore be addressed within existing appropriations.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$1,677 in FY 2018-19 and \$732 in FY 2019-20.

### **Local Government**

The bill increases workload for Denver County Court, to seal records to the extent that any petitions are received. Any other local government custodians of criminal records may also see an increase in workload related to the sealing of conviction records.

### **Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. It applies to petitions filed on or after the effective date and convictions entered before the effective date.

### **State Appropriations**

For FY 2018-19, this bill requires a cash fund appropriation of \$23,543 and an allocation of 0.5 FTE to the Department of Public Safety.

### **State and Local Government Contacts**

Information Technology

Judicial

Public Safety