



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3789 Signed by Governor on July 2, 2018
Author: Govan
Subject: South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program Expungement Act
Requestor: House of Representatives
RFA Analyst(s): Gardner
Impact Date: July 26, 2018

Estimate of Fiscal Impact

| | FY 2018-19 | FY 2019-20 |
|----------------------------------|-------------------|-------------------|
| State Expenditure | | |
| General Fund | \$0 | \$0 |
| Other and Federal | \$0 | \$0 |
| Full-Time Equivalent Position(s) | 0.00 | 0.00 |
| State Revenue | | |
| General Fund | \$0 | \$0 |
| Other and Federal | \$2,500 | \$0 |
| Local Expenditure | \$0 | \$0 |
| Local Revenue | \$28,500 | \$0 |

Fiscal Impact Summary

The implementation of this bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds for the Judicial Department, South Carolina National Guard, and Commission on Prosecution Coordination.

Revenue generated from verification fees paid to the State Law Enforcement Division is expected to be \$2,500 annually.

This bill is anticipated to increase local government revenue by \$28,500 annually from the collection of expungement fees.

Explanation of Fiscal Impact

Signed by Governor on July 2, 2018

State Expenditure

Both active and retired members of the South Carolina Army National Guard (SCNG) and other branches of the military administer the South Carolina Youth Challenge Academy Program to help at-risk youth learn basic skills and achieve the education necessary to succeed in life. The intensive residential program, which provides military leadership and discipline for youths ages 16 to 19, consists of 8 core components, including academic excellence, life-coping skills, job skills, health and hygiene, responsible citizenship, service to community, leadership, and physical fitness. The state has partnered with the U.S. Department of Labor to offer youth who successfully graduate from the Youth Challenge Academy Program the opportunity to take part

in a 5½ month South Carolina Jobs Challenge Program which provides training for careers in such fields as nursing assistance, welding, and computer technology.

This bill creates the South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program Expungement Act. The act will enable successful graduates of the Youth Challenge Academy and the Jobs Challenge Program to apply for expungement of their criminal record immediately upon graduation. In addition to successful completion of the Academy and Jobs Challenge Program, the person must be eligible for expungement pursuant to Section 22-5-910, Section 22-5-920, Section 34-11-90(e), and Section 56-5-750 (F). The cited sections involve first offense convictions as a youthful offender, or for misdemeanor fraudulent check, failure to stop for law enforcement when no great bodily injury or death result, domestic violence in the third degree, or a crime punishable by not more than 30 days imprisonment, \$1,000 fine, or both. If the person has had no other conviction (including a guilty plea, a plea of nolo contendere, or the forfeiting of bail) during the approximately 1 year period required to complete both programs, the circuit court may issue an order expunging the records including any associated bench warrant.

The bill specifies that the solicitors' offices in each circuit of the state will handle specific expungement requests, including expungement requests related to Youth Challenge Academy and Jobs Challenge Program graduates. The bill also provides that if an offense for which a person was convicted is subsequently repealed and the elements of the offense are consistent with an existing similar offense that is currently eligible for expungement, a person's eligibility for expungement of the offense must be based on the existing similar offense. Further, graduates of the Youth Challenge Academy and Jobs Challenge Program and other offenders convicted of specific crimes may have their convictions expunged retroactively if the convictions occurred prior to enactment of the bill.

No person may have his records expunged under these provisions more than once. Once an expungement under these provisions has been granted, the records must be destroyed or retained by any law enforcement agency, or municipal, county, or state agency in accordance with the current provisions of Section 17-1-40. The State Law Enforcement Division (SLED) must keep a nonpublic record of the offense and the date of the expungement to ensure that no person takes advantage of expungement pursuant to this act more than once. The nonpublic record is not subject to release under the Freedom of Information Act but may be released to those authorized law or court officials who need to know the information in order to prevent a person from taking advantage of the expungement afforded by the act more than once. The South Carolina Youth Challenge Academy program director, or magistrate or municipal court judge must attest by signature on the expungement application as to the eligibility of the charge for expungement, before the solicitor or his designee and then to the circuit court judge, or family court judge in the case of a juvenile, signs the application. The bill further provides a person whose record has been expunged may not be held guilty of perjury or giving a false statement for failing to acknowledge the arrest, indictment, or trial in response to an inquiry for any purpose.

Judicial Department. This bill allows those eligible for expungement of a criminal record who graduate and complete the South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program to apply to have their records expunged under certain circumstances. Circuit

court and family court judges may be required to sign expungement forms of those eligible for expungement under the bill. However, these judges currently sign certain expungement forms, therefore, there will be no expenditure impact on the General Fund.

South Carolina Law Enforcement Division. The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, as the agency expects to manage any additional responsibilities within current resources.

South Carolina National Guard. The implementation of this bill will have no expenditure impact to the General Fund, Other Funds, or Federal Funds, as the National Guard expects to manage any additional responsibilities within current resources.

Commission on Prosecution Coordination. This bill allows those eligible for expungement of a criminal record who graduate and complete the South Carolina Youth Challenge Academy and South Carolina Jobs Challenge Program to apply to have their records expunged under certain circumstances. As the commission anticipates there being only a slight increase in expungement requests each year as a result of the Guard program, the commission expects solicitors to manage any expenditure impact within current resources.

State Revenue

Applicants for expungement pay the State Law Enforcement Division (SLED) a \$25 fee for verifying and documenting that the applicant's criminal charges are appropriate for expungement. Approximately 100 youth successfully complete and graduate from the Academy and Jobs Challenge Program each year. If 100 applied for expungement of their criminal record and paid the fee, SLED's Other Funds revenue would increase by \$2,500 annually beginning in FY 2018-19.

Local Expenditure

Clerks of court file a variety of documents in the ordinary course of business, including expungement orders, and the number of expungement orders filed is not expected to increase significantly because of this bill. Consequently, the Revenue and Fiscal Affairs Office does not anticipate clerks of court will incur additional expenditures. Further, as noted above, the Commission on Prosecution Coordination expects solicitors' offices to manage the increase in expungement requests with existing resources. Therefore, this bill is not expected to have an expenditure impact on local government.

Local Revenue

Applicants for expungement of criminal records pay a \$250 administration fee to the solicitor's office, which the solicitor's office retains and uses to defray costs of the expungement process. Applicants for expungement of criminal records also pay a \$35 fee to the clerk of court for filing an order of expungement. The number of additional expungement applications and orders are not expected to increase significantly. If 100 program graduates applied for and received an order of expungement, and paid the fees, solicitors would collect \$25,000 a year and clerks of court would collect \$3,500 annually. Therefore, this bill is anticipated to increase local government revenue by \$28,500 annually from the collection of expungement fees.



Frank A. Rainwater, Executive Director