

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: SB 1573 - A**

80th Oregon Legislative Assembly – 2020 Regular Session  
Legislative Fiscal Office

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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**Measure Description:**

Modifies procedure for expunction of certain juvenile records.

**Government Unit(s) Affected:**

Cities, Counties, District Attorneys and their Deputies (DAs), Oregon Judicial Department (OJD), Oregon Youth Authority (OYA), Public Defense Services Commission (PDSC)

**Summary of Fiscal Impact:**

Costs related to the measure may require budgetary action - See analysis.

**Analysis:**

The bill as amended requires juvenile departments to file an application for expunction of a subject person’s records with the juvenile court in the county in which the department is located within 90 days following the later of a subject person reaching 18 years of age or the date the department receives an expunction request from the subject person. If the juvenile court denies the application, the specific reason for the denial must be included in the judgment. Either the department or the subject person may file a new application for expunction. A subject person is one who has had contact with a juvenile department that did not result in a petition and who has never been found within the jurisdiction of the juvenile court.

Within the same 90-day period, either the department or the juvenile court must issue a notice of expunction.

Notice must be sent to all state agencies the department reasonably determines may be in possession of records relating to the subject person. State agencies are required to comply with the notice within 60 days of receipt unless the department or the juvenile court provides a 30-day extension. State agencies failing to comply with the notice can be ordered by the juvenile court to comply. When all notified state agencies have indicated their compliance or no later than 90 days after notice was delivered, the department shall provide a copy of the notice of expunction as well as a list of complying and non-complying agencies and a list of rights and effects of expunction to the subject person. The department will then expunge all records in its possession subject to the notice.

The Oregon Youth Authority (OYA), consulting with county juvenile departments, will develop model forms to implement the provisions summarized above.

Upon issuance of a notice of expunction, the contact that is the subject of the expunged record may not be disclosed by any agency. The subject person may without penalty represent that the record never existed and that the contact never occurred.

Protection is afforded to public officials who unknowingly send notice for an ineligible individual or who fail to send notice for an eligible individual. However, a subject person has a right of action against any person intentionally violating the provisions of this section including up to \$1,000 in punitive damages on top of any actual damages. Further, intentional violation of these provisions by a public employee is cause for dismissal.

Upon denial or if eligible for expunction under ORS 419A, a subject person without financial ability to employ skilled counsel to apply for expunction may request that the juvenile court appoint counsel to represent the person at state expense.

The definition of expunction is modified and no longer allows OYA to seal records.

OYA must report on implementation of the bill to the interim committees of the Legislative Assembly relating to juveniles no later than September 15, 2020 in collaboration with the county juvenile departments and the Judicial Department. No later than January 2, 2021, OYA in collaboration with the county juvenile departments and the Judicial Department, shall submit to the interim committees of the Legislative Assembly relating to juveniles another report describing the process by which records of contacts are expunged under this bill.

The bill appropriates an unspecified amount of General Fund to OYA to distribute to county juvenile departments for the purpose of carrying out the provisions of the bill.

#### Oregon Youth Authority

There is a fiscal impact to the Oregon Youth Authority (OYA). OYA will develop forms for use by the juvenile departments to implement this bill. It will also collect data and report to the Legislature on its findings. OYA can absorb these activities with existing resources.

The bill includes an unspecified General Fund appropriation to OYA for distribution to county juvenile departments. There is a fiscal impact to OYA in the amount of that appropriation. OYA will distribute those funds using existing resources.

#### Oregon Judicial Department

The Oregon Judicial Department may experience additional court cases pursuant to this bill. These additional cases can be absorbed using existing resources.

#### Counties

County juvenile departments may receive funds from OYA to implement the provisions of this bill. The bill does not specify the amount of General Fund appropriation or how it will be divided among the county juvenile departments.

#### District Attorney and their Deputies

The fiscal impact on District Attorney's and their Deputies cannot be determined at this time. Any impact depends on the number of cases involved. This bill may have some cost savings as it removes the statutory provision which makes certain violations of an expunction order a misdemeanor.