

HF1083 - 0 - Identity Theft and Mistaken Identify; Records

Chief Author: **Cedrick Frazier**
 Committee: **Public Safety Finance & Policy**
 Date Completed: **2/13/2023 10:27:56 AM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2023	FY2024	FY2025	FY2026	FY2027
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Karen McKey **Date:** 2/13/2023 10:27:56 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2023	FY2024	FY2025	FY2026	FY2027	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

HF1083 at section 1 adds a new subdivision 1a to Minn. Stat. § 609A.02 (grounds for expungement order) providing at paragraph (a) that upon the dismissal and discharge of criminal proceedings brought against a person as a result of mistaken identity or another person using the identifying information of the named person the prosecutor shall notify the court under section 609A.025 (no expungement petition required in case with prosecutor agreement), and that the court administrator under section 609A.03, subdivision 8 shall send a copy of the expungement order to each agency whose records are affected by the order.

Subdivision 1a, paragraph (b) provides that the condition under section 299C.11, subdivision 1 that an arrested person’s criminal records may only be destroyed or sealed if the person has not been convicted of a felony or gross misdemeanor within 10 years preceding the determination of all actions in their favor does not apply to persons whose charges are dismissed or proceedings determined in their favor as a result of mistaken identity or identity theft. Paragraph (c) provides that the effect of a court order to seal under paragraph (a) shall be to restore the person under law to the status the person occupied before the arrest or charges.

The bill at section 2 amends Minn. Stat. § 609A.025 to add references to section 609A.02, subdivision 1a.

Assumptions

It is unclear what the impact of these provisions will be. It is unclear whether prosecutors are required to agree to expungement under section 609A.025 for cases meeting the criteria in section 609A.02, subdivision 1a(a), or only to notify the court when charges are dismissed, which the prosecutor is already required to do.

It is unclear whether court orders issued under these circumstances will be issued under section 609A.02, subdivision 1a(a), section 609A.025, and/or section 609A.03, or what standard the court is to apply before issuing an expungement order in cases meeting these criteria, the standard in section 609A.025 or section 609A.03.

It is also unclear what the impact or intent is of adding in subdivision 1a of section 609A.02 a requirement that the court administrator under section 609A.03, subdivision 8 shall distribute a copy of orders issued pursuant to subdivision 1a. It is unknown whether the addition of that language in section 609A.02, subdivision 1a, means the order distribution process is different for all other grounds in section 609A.02, and what the order distribution process is for orders issued under section 609A.025.

For purposes of this fiscal note it is assumed that the provisions of this bill will not significantly change current law or practices as a defendant whose charges were dismissed can already petition for expungement under section 609A.02, subdivision 3(a)(1) (proceedings resolved in the defendant’s favor), and a prosecutor can already agree to expungement without a petition in such cases under section 609A.025.

Although the lack of clarity may result in additional litigation in certain expungement cases, it is assumed that overall the provisions of this bill will not significantly increase the number of expungement requests brought before the court or the resources required to process expungement cases with issues of identity theft or mistaken identity.

It is also assumed that the court will not modify its order distribution practices and will continue to distribute all orders issued under chapter 609A to every affected agency.

Expenditure and/or Revenue Formula

This bill is not anticipated to have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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