

BDR 14-634
AB 160

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 21, 2023

Agency Submitting: Department of Public Safety, Parole and Probation

Items of Revenue or Expense, or Both	Fiscal Year 2022-23	Fiscal Year 2023-24	Fiscal Year 2024-25	Effect on Future Biennia
Salaries (Expense)				\$626,596
Operating (Expense)				\$4,444
Equipment (Expense)				\$17,178
Information Services (Expense)				\$28,665
Total	0	0	0	\$676,883

Explanation

(Use Additional Sheets of Attachments, if required)

BDR 14-634 Revises provisions governing the sealing of certain criminal records.

Please see the attached document.

Name Nicole Lubich

Title Management Analyst IV

GOVERNOR'S OFFICE OF FINANCE COMMENTS

Date Friday, March 03, 2023

The agency's response appears reasonable.

Name Amy Stephenson

Title Director

BDR 14-634 Revises provisions governing the sealing of certain criminal records.

This bill is realigning to the automatic sealing of criminal records relating to certain convictions of a person and certain charges against a person. Also revising provisions relating to a petition to seal criminal records relating to certain charges brought against a person.

This bill would require RCCD, not later than January 1, 2026, develop and implement a process to identify eligible convictions and charges against a person that becomes eligible for records sealing under NRS 179.245. RCCD is required to then identify the cases monthly and the associated court and records holder. After identifying the court and the records holder RCCD is to notify the courts of the cases and the associated records holder. RCCD is to make the public aware of the sealing of the conviction or charges. The court is then to automatically seal without a hearing the conviction or charge and forward the orders to the identified records holders.

The implementation of the provisions of AB160 that seeks to make automatic, the sealing of any criminal history record that is eligible under NRS 179.245, could create the following issues:

Currently the Parole and Probation Division becomes involved when a petitioner wishes to put in for a sealing of their record through a court. Currently the Division reviews the eligibility of the person based on NRS. If the division believes they do not qualify for records sealing, then an opposition recommendation is submitted to the Attorney General's office, who represents that opposition on behalf of the Division, barring an immediate order of records sealing from the court. Ultimately if an order to seal is produced by the court, either after a hearing or via a direct order without hearing, then and only then does the Division act. Thus, the Division is currently only receiving a fraction of all eligible records sealings. If this sealing occurs automatically the Division acknowledges that it will no longer need to designate efforts to determine the applicability to apply for a record sealing. However, the Division further estimates a staggering increase in volume of ordered records sealings.

Currently the Division has an approximate backlog of 200 sealings due to staffing. In the last three years the division processed 590 court ordered sealings average per year. Ten years ago, the division processed about 11,000 PSIs that could require sealing. With 80% of the 11,000 cases, we would have about 9,500 sealings to complete. Therefore, the division would need to request five additional Administrative Assistant II's, one Administrative Assistant III and one Program Officer 1.

As described by NRS 179.247, our staff must upon the receipt of an order to seal have the electronic and physical documentation sealed from view of all inquiries, barring those that are exempted by law. This Bill also creates an automatic process that may be in opposition to the requirements of NRS 176.145 Presentence investigation and report: Contents of the report subsection (4), Arrests during the 10 years immediately preceding the date of the offense for which the report is being prepared. The Division would not reliably be able to report all arrests during the 10 years preceding the date of the offense if the records were automatically sealed. If the PSI writer is still required to look at sealed records, then there would be added processing required, which may include a judge's approval to see the records, which will further add to the time and cost.

Based on the language in section 1 that sets the date of implementation for RCCD, this also delays Parole and Probation from being able to do record sealings until the mechanism for automatic sealings is in place. The needed personnel mentioned above would not start until this implementation is complete, or January 2026, whichever is sooner. It is therefore projected that the fiscal impact would not be until the 2025-2027 biennium. General funds will need to be requested for these personnel.