

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 amends Section 29-3A-2 of the Criminal Record Expungement Act entitled “Definitions” to add a definition for “domestic violence crime” to include crimes against household members and the violation of a protection order under the Family Violence Protection Act pursuant to Section 40-13-6. It also amends Subsection D, which defines “public records”, to change “human services department” to “health care authority.”

Section 2 amends Section 29-3A-4 of the Criminal Record Expungement Act entitled “Expungement of Records Upon Release Without Conviction” to except Section 29-3A-10 (new material added in Section 4 of the bill) from the provisions of Section 29-3A-4.

Section 3 amends Section 29-3A-7 of the Criminal Record Expungement Act entitled “Effect of an Order to Expunge” excepts from the provisions of this section arrest records for a domestic violence crime.

Section 4 is new material for inclusion in the Criminal Record Expungement Act entitled “Expungement of Records Upon Acquittal or Dismissal with Prejudice – Domestic Violence Crimes” and provides that (1) a person who is charged with a DV crime who is acquitted or whose charge is dismissed with prejudice may request expungement; (2) the request shall be made in writing to the court that entered the acquittal or dismissal; (3) the court shall order expungement of all public and arrest records within 30 days or receiving the expungement request and cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit law enforcement and courts from releasing copies of expunged records to any person, except upon order of the court and shall require relevant law enforcement and courts to give notice to the court and the person requesting expungement that the expungement process is completed. Finally, any person requesting expungement of these DV records will not be charged any fee.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None for this agency.

SIGNIFICANT ISSUES

This bill carves out an exception to simplify the process of expungement for persons who are charged with domestic violence crimes, whether felony or misdemeanor, and whose case results in an acquittal or a dismissal with prejudice. It appears that the procedures detailed in Section 29-3A-4 do not apply to these type of charges and therefore no hearing is required and no notice or opportunity to object is given to the district attorney or the department of public safety. It also appears to exempt these records from disclosure under Section 29-3A-7, which provides that expunged records can be disclosed in connection with an application regarding employment or a financial institution. In addition, whereas Section 29-3A-4 requires a person to wait a year from the date of final disposition of a case before filing an expungement petition, the new section

allows a person to file such a request at any time after the acquittal or dismissal of the case.

PERFORMANCE IMPLICATIONS

None noted.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a