



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**

**STATEMENT OF ESTIMATED FISCAL IMPACT**

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**Bill Number:** S. 0255  
**Author:** Thurmond  
**Requestor:** Senate Judiciary  
**Date:** February 17, 2015  
**Subject:** Destruction of Arrest and Booking Records  
**RFA Analyst(s):** Gardner, Shealy, and Wren

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**Estimate of Fiscal Impact**

	<b>FY 2015-16</b>	<b>FY 2016-17</b>
<b>State Expenditure</b>		
General Fund	Minimal	N/A
Other and Federal	\$0	N/A
Full-Time Equivalent Position(s)	0.00	0.00
<b>State Revenue</b>		
General Fund	N/A	N/A
Other and Federal	N/A	N/A
<b>Local Expenditure</b>	Minimal	N/A
<b>Local Revenue</b>	N/A	N/A

**Fiscal Impact Summary**

This bill is not expected to significantly impact State expenditures. All agencies surveyed indicated that either the costs associated with implementation would be minimal and could be absorbed, or that there would be no cost to the agency.

**Explanation of Fiscal Impact**

**State Expenditure**

Senate Bill 255 provides that a person/entity publishing on his/its website the arrest and booking record(s) of a person whose legal charges have been discharged or dismissed, or of a person who is found not guilty of a charge, shall, without fee or compensation, remove the arrest and booking record(s) within thirty days of receipt of a written request for removal. The bill also establishes penalties for violations.

**Department of Public Safety.** The agency indicates this bill will have no impact on the General Fund, Federal Funds, or Other Funds.

**Judicial Department.** It is anticipated that additional hearings may be held in Common Pleas and Magistrates courts due to the creation of a new legal offense and new civil cause of action. There is no data available to indicate the number of additional hearings which may result, as the offense and civil cause of action are new additions to this section of law. It is presumed that any additional costs will be absorbed by the agency. Should this legislation result in a significant number of additional hearings, it could result in an increased backlog for the Common Pleas and

Magistrate courts. Any additional costs to the Magistrate courts would be borne by the counties.

**SLED.** Pursuant to Section 17-22-940 and Fiscal Year 2015 Proviso 62.13, SLED is authorized to collect a twenty-five dollar fee for each request to expunge a criminal record. However, no fee may be charged when an expungement is sought pursuant to Section 17-1-40. Therefore, SLED does not anticipate any loss of revenue due to the revision of this section of law. Effective June 9, 2014, Section 17-1-40 was revised to include language that authorizes law enforcement and prosecution agencies to retain a person's arrest and booking records, associated bench warrants, mug shots, and fingerprints under seal for three years and one hundred twenty days. The current legislation will force law enforcement to retain records indefinitely for the purposes of ongoing or future investigations. Senate Bill 255 appears to change Section 17-1-40 in its entirety by eliminating this requirement, which will affect SLED's recent reprogramming of its internal database to meet the existing retention guidelines. The additional verbiage in the bill requires businesses in South Carolina to remove criminal information from their websites within thirty days of receipt of a written request by a person whose charge has been dismissed. SLED provides the capability of ordering criminal background check information through its website, Citizens Access to Criminal Histories (CATCH). However, the agency states that meeting a thirty (30) day turnaround time may be challenging with current resources.

**State Revenue**

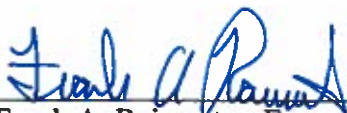
N/A

**Local Expenditure**

The Revenue and Fiscal Affairs Office surveyed the Municipal Association of South Carolina and thirteen county governments. Responses were received from both the Municipal Association and Charleston County. The Municipal Association reports this bill will have no impact on municipalities. Charleston County indicates costs will be minimal.

**Local Revenue**

N/A



Frank A. Rainwater, Executive Director