Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

Part I: Measure Information

| Bill Request #: 1359 | |
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| Bill #: SB 294 SCS | |
| Bill Subject/Title: | AN ACT relating to expungement of juvenile records. |
| Sponsor: Senator Whitney H. Westerfield | |
| Unit of Government: | |
| | X Charter County X Consolidated Local X Unified Local X Government |
| Office(s) Impacted: | Local Law Enforcement and Court clerks |
| Requirement: X | Mandatory Optional |
| Effect on Powers & Duties: | Modifies Existing X Adds New Eliminates Existing |

Part II: Purpose and Mechanics

As introduced, SB 294 expands the criteria for which a child may petition the court for expungement to include all offenses except those related to an offense which would classify the juvenile as a violent offender under KRS 439.3401 or a perpetrator of a sex crime as defined in KRS 17.500. This replaces the standard of whether or not the offense would have been a felony if committed by an adult.

Current language provides that juvenile adjudications shall be sealed. SB 294 requires the court, once it makes certain findings, shall order the adjudication vacated and order expunged all records in the custody of the court, any other agency including law enforcement, and public and private school records. The standard for allowing this action has been amended from a person who has not been convicted of a felony to a person who has not been convicted of or has a pending case regarding an offense which would classify the juvenile as a violent offender or a perpetrator of a sex crime.

SB 294, as introduced, provides that the following court actions **require no action by the child to initiate**, and once the order to vacate, expunge, or seal the adjudication is issued, the court shall inform the person in writing of the order and the consequences thereof:

- The court shall order the adjudication vacated and the records expunged when a child attains the age of 18 if an offense other than one classifying the child as a violent offender or a sex crime was committed while that child was under the age of 15.
- If a court dismisses a petition against a child or finds the child not delinquent, the court shall order the record of the proceeding expunged.
- The court shall order the adjudication sealed when a child attains the age of 18 if an offense other than one classifying the child as a violent offender or a sex crime occurred after the child reached the age of 15 and the child has had no further adjudications and no status offense, public offense, or criminal proceeding pending.

SB 294 provides that only law enforcement may access records that have been expunged or sealed, and only for the following reasons:

- To determine if a child is eligible for a diversion program;
- For investigative or prosecutorial purposes within the juvenile justice system; or
- For a background check that related to law enforcement employment or any employment that requires security clearance.

SB 294 SCS retains all the provisions of the measure as introduced and makes linguistic changes only.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of SB 294 SCS on local governments is expected to be nil to minimal.

Juvenile records are treated differently from the beginning. Access is extremely restricted. In general, local law enforcement agencies do not get dispositions on juvenile cases and they do not maintain juvenile arrest records, except for traffic offenses which are treated as adult records.

Data Source(s): Franklin County Sheriff's Office

Preparer: Wendell F. Butler **Reviewer:** JWN **Date:** 3/17/16