

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Anyanonu/Johnson</u>	LAST UPDATED _____
SHORT TITLE <u>Automatic Expungement of Eviction Records</u>	ORIGINAL DATE <u>1/31/25</u>
	BILL NUMBER <u>House Bill 98</u>
	ANALYST <u>Chavez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	No fiscal impact	At least \$50	Indeterminate but minimal	At least \$50	Recurring	General Fund
Total	No fiscal impact	At least \$50	Indeterminate but minimal	At least \$50	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 New Mexico Mortgage Finance Authority (MFA)

SUMMARY

Synopsis of House Bill 98

House Bill 98 (HB98) would add a new section to the Uniform Owner-Resident Relations Act that requires a court or a state or local agency that holds records that relate to an individual’s eviction to expunge or destroy the eviction records five years after the eviction occurred. HB98 would also require the Administrative Office of the Courts (AOC) to implement a confidential procedure to allow individuals eligible for eviction expungement to confirm or request expedited expungement of eligible court records.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

HB98 would require AOC to identify and expunge existing eligible eviction records and make an ongoing effort to ensure that new eligible eviction records are expunged in a timely manner. AOC estimates implementing HB98 would have an initial nonrecurring cost of \$50 thousand; recurring efforts after FY26 would require half an FTE.

SIGNIFICANT ISSUES

AOC provides the following:

- AOC has implemented a free, accessible online tool for persons to notify the AOC that they are eligible for expungement of court records related to cannabis charges under Section 29-3A-8 NMSA 1978. The tool has proved successful, and AOC would follow this model to create an online notification system for persons with eviction records eligible for expungement.
- AOC anticipates requiring a minimum of six months to analyze existing data regarding court eviction records. The effort to identify, review, and expunge existing records will require a data analyst and developer. AOC would also implement operating procedures to ensure that eligible eviction records are expunged timely in the future.
- Traditional expungement v. automatic expungement: The Criminal Record Expungement Act (CREA), Section 29-3A-1 et. seq., was enacted in 2019, and allows persons to petition the district court to expunge arrest and public records in three categories:
 - Wrongful identification of a person in arrest records due to identity theft;
 - Release of a person without conviction; and
 - Conviction.

Sections 29-3A-3, -4, and -5. Under CREA, “expungement” means the removal from access to the general public of a notation of an arrest, complaint, indictment, information, plea of guilty, conviction, acquittal, dismissal or discharge record, including a record posted on a publicly accessible court, corrections or law enforcement internet website. Section 29-3A-2 (B). Importantly, CREA only provides an expungement pathway for criminal records.

In contrast to expungement through a court petition under Sections 29-3A-3, -4, and -5, automatic expungement of eviction records requires the public entity that holds the records to 1) identify eligible records, and 2) take affirmative action to remove the records from public view.

The attachment provides examples of similar legislation from other states, provided by the AOC.

The New Mexico Mortgage Finance Authority provides the following:

Based on data from Eviction Lab (a research organization at Princeton University), an estimated 17,400 evictions are filed annually in New Mexico. A legal eviction comes with a court record, which can impede a family’s ability to secure housing, because most landlords conduct eviction screenings before renting. As proposed in HB98, eviction expungement could help families overcome this barrier in the long term while allowing a landlord to know whether a prospective tenant has had an eviction within the last five years. Further, HB98 would not prevent a landlord from using a collections agency to collect on unpaid rent associated with an eviction. Resultingly, the bill does not prevent unpaid rent from showing up as an unpaid bill for seven years on a credit report.

ADMINISTRATIVE IMPLICATIONS

AOC would have to implement a procedure to allow individuals eligible for eviction expungement to confirm or request expedited expungement of eligible court records, like the cannabis expungement online notification system tool.

The New Mexico Attorney General provides the following:

Since the law would apply to all state agencies, NMAG would likely need to create a policy and procedures to identify and destroy any records held by NMAG required to be expunged.

Attachments

1. HB0098 Attachment 1

FC/hj/SL2

State	Policy/Link	Method	Policy Resources
FL	HB 1193 (2021)	<p>Sealing</p> <p>A defendant can have their name substituted with “tenant” on the docket and have the proceeding sealed if:</p> <ol style="list-style-type: none"> The parties file a joint stipulation requesting relief. The case was dismissed. The case was resolved by settlement or stipulation, and the defendant complied with the terms of the agreement. A default judgment was entered against the defendant, and the defendant satisfied any monetary award included in the judgment. A judgment was entered against the defendant 5 years before the motion was filed, and the defendant satisfied any monetary award included in the judgment. <p>A defendant is not eligible for relief if:</p> <ol style="list-style-type: none"> During any 12 months, the defendant has had a judgment entered against them in two or more eviction proceedings. During any 24 months, the defendant has had a judgment entered against them in three or more eviction proceedings. <p>(This standard is very similar to Oregon)</p>	<p>This policy allows those evicted to have their names removed from docket listings and their court records sealed. Rep. Vance Aloupis states:</p> <p>“Families who have been evicted often struggle with finding residential mobility and replacement housing that is both affordable and habitable,” noting that sometimes landlords will not rent to a person who has been evicted. “What HB 1193 does is create an opportunity for an individual who has been evicted to have their eviction expunged based on explicit terms that are listed within the bill.”</p> <p>Blankenship, Gary. “Some Evictions Records Could Be Expunged under Bill.” <i>The Florida Bar</i>, www.floridabar.org/the-florida-bar-news/some-evictions-records-could-be-expunged-under-bill/.</p>

<p>UT</p>	<p>HB 359 (2022)</p>	<p>Expungement and Tenant Screening Regulations 78B-6-852 Page 3 Without the filing of a petition, a court shall order the expungement of all records of eviction if:</p> <ul style="list-style-type: none"> a. The entire case was dismissed. b. There is no appeal pending for the case. c. At least three years have passed since the day the eviction was filed, or the parties to the eviction stipulated the expungement and filed a stipulation with the court. 	<p>This bill received harsh criticism due to the burden it burdens tenants to do all the work to receive an expungement. The tenant does not have power in the process, as shown in the following quote: “Even if renters have all the receipts to prove they paid their debt, landlords can still veto the expungement and don’t need to provide any proof or even explain why — under the law, a landlord could simply say “I object” in writing, and the expungement will be shot down. By comparison, a criminal expungement bill passed in recent years only allows the objections of crime victims to be considered as one of multiple factors by a judge when deciding on an expungement. But if a landlord says no, then a judge has no choice but to disqualify an eviction expungement request.” Peterson, Eric. “Renters Facing Eviction Don’t Get Enough Help from New Expungement Law, Advocates Say” <i>The Utah Investigative Journalism Project - Non-Profit, Public Service Journalism and Educational Resource</i>, The Utah Investigative, www.utahinvestigative.org/renters-facing-eviction-dont-get-enough-help-from-new-expungement-law-advocates-say/.</p>
<p>KY</p>	<p>HB 342 (2023)</p>	<p>Sealing and Expungement</p> <ul style="list-style-type: none"> a. If the case is dismissed, the court shall order the record expunged upon sixty days or; b. If a forcible detainer is entered, the court shall order the record expunged after three years. <p>After the expungement, the proceeding should be wiped away as if it has never occurred. The court and other agencies shall delete or remove records from computer systems, and background checks should indicate the record does not exist.</p>	<p>This bill did not pass, which left many communities distraught, as eviction acts as a long-term barrier to stable housing. The harm of forced displacement marginalizes those who have been evicted for a myriad of reasons. George Eklund, director of education and advocacy at Louisville Coalition for the Homeless states: “The problem is that eviction is a binary stain on your record—either looks like you had one or you didn’t... There’s a lot of gray area of why people got evicted.” Danielle Kaye, a reporter for WKU Public Radio, justified the following: “Eviction expungement does not directly address the many causes of eviction – from the</p>

			<p>affordable housing crisis and skyrocketing rents to insufficient rental assistance, among other structural factors. But tenants and advocates say the process can at least reduce the harm caused by forced displacement.”</p> <p>Kaye, Danielle. “‘Stain on Your Record’: Evictions Follow Kentuckians for Years, Limiting Access to Housing.” <i>WKU Public Radio The Public Radio Service of Western Kentucky University, WKYU</i>, 6 Mar. 2024, www.wkyufm.org/2023-06-02/stain-on-your-record-evictions-follow-kentuckians-for-years-limiting-access-to-housing</p>
CA	AB 2819 (2016)	<p>Restricting Court Records</p> <p>1161.2. (a) (1) The clerk shall allow access to limited civil case records filed under this chapter, including the court file, index, and register of actions, only as follows:</p> <p>(A) To a party to the action, including a party's attorney.</p> <p>(B) To a person who provides the clerk with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any.</p> <p>(C) To a resident of the premises who provides the clerk with the name of one of the parties or the case number and shows proof of residency.</p> <p>(D) To a person by order of the court, which may be granted ex parte, on a showing of good cause.</p> <p>(E) To any person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. The court shall issue the order upon issuing judgment for the plaintiff.</p>	<p>Lake and Tupper state: “California passed AB 2819, which limits access to court case records and automatically and permanently seals some evictions, unless the landlord follows through with a trial within 60 days of when the complaint was filed. This action also creates a pathway for tenants to seal records that resulted in a settlement.” (9)</p> <p>Lake, Jaboa, and Leni Tupper. <i>Eviction Record Expungement Can Remove Barriers to Stable Housing</i>, www.americanprogress.org/wp-content/uploads/sites/2/2021/09/Eviction-Record-Expungement-Can-Remove-Barriers.pdf.</p>

<p>MN</p>	<p>SB 3492 (2024)</p>	<p>Expungement If the court finds that the defendant occupied real property that was subject to contract for deed cancellation or mortgage foreclosure and: (i) the time for contract cancellation or foreclosure redemption has expired and the defendant vacated the property prior to commencement of the eviction action; or (ii) the defendant was a tenant during the contract cancellation or foreclosure redemption period and did not receive a notice vacate on a date prior to commencement of the eviction case; (2) if the defendant prevailed on the merits; (3) if the court dismissed the plaintiff's complaint is dismissed for any reason; (4) if the parties to the action have agreed to an expungement; (5) three years after the eviction was ordered; or (6) upon motion of a defendant, if an eviction action has been filed in violation of section (7) upon motion of a defendant, if the case is settled and the defendant fulfills the terms of the settlement. If a tenant brings a motion for the expungement of an eviction, the court shall order the expungement of an eviction case that was commenced on the grounds of a violation of or any other claim of breach, regardless of when the original eviction was ordered, if the tenant could receive an automatic expungement or if the breach was based solely on the possession of marijuana or tetrahydrocannabinol.</p>	<p>The Office of Minnesota Attorney General Keith Ellison states Bill 3492 aims to: protect tenants most vulnerable to housing instability, including survivors of domestic violence and undocumented renters. The law also bolsters protections for tenants against landlord retaliation, ensuring that tenants who organize – such as by joining a tenant’s union – are able to do so without negative repercussions, which can include the threat of displacement. Finally, the law also addresses excessive and arbitrary rental fees, known commonly as “junk fees,” making Minnesota the latest in a growing number of states targeting excessive rental fees in 2024.”</p> <p>“Minnesota Passes New Protections for Tenants, Including Measure Ensuring Right to Organize.” <i>National Low Income Housing Coalition</i></p>
-----------	---------------------------	---	---