

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

**LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 2/27/25

**SPONSOR** Maestas

**BILL**

**SHORT TITLE** Criminal Record Orders & Expungement **NUMBER** Senate Bill 467

**ANALYST** Sanchez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>DPS/LERB</b>	<b>No fiscal impact</b>	<b>Indeterminate but minimal</b>	<b>Indeterminate but minimal</b>	<b>Indeterminate but minimal</b>	Recurring	<b>General Fund</b>

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)  
 Administrative Office of the District Attorneys (AODA)  
 New Mexico Sentencing Commission (NMSC)  
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From  
 Office of the Attorney General (NMAG)

## SUMMARY

### Synopsis of Senate Bill 467

Senate Bill 467 (SB467) amends provisions of the Criminal Record Expungement Act, primarily modifying Sections 29-3A-3, 29-3A-4, and 29-3A-5, NMSA 1978, to revise the process and eligibility criteria for expungement of criminal records. The bill removes the statutory requirement that a court issue an expungement order within thirty days of a hearing. It also eliminates the obligation to notify the Department of Public Safety (DPS) and law enforcement agencies and, in some instances, limiting required notice to the relevant district attorney’s office.

SB467 removes embezzlement under Section 30-16-8, NMSA 1978, from the list of offenses ineligible for expungement. Under current law, individuals convicted of certain offenses may petition for expungement after completing all conditions of their sentence and a specified waiting period, provided they meet statutory criteria. By allowing expungement petitions for embezzlement convictions, the bill expands eligibility to financial crimes previously excluded from the process.

The bill maintains existing statutory waiting periods but grants courts greater discretion in issuing expungement orders. It also retains the requirement that courts evaluate whether an expungement serves the interests of justice, considering factors such as the severity of the offense, the petitioner’s age at the time of conviction, subsequent criminal and employment history, and any documented adverse consequences of retaining the record.

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**

SB467 modifies notification procedures and expands expungement eligibility, which may affect agency operations and associated costs. The Administrative Office of the Courts (AOC) and the Administrative Office of the District Attorneys (AODA) report no anticipated fiscal impact. However, the Department of Public Safety (DPS) indicates that removing the requirement for direct court notification of expungement orders may create additional administrative burdens. Without court-initiated notification, DPS’s Law Enforcement Records Bureau (LERB) would need to develop independent tracking mechanisms, requiring technology upgrades, additional personnel, and expanded legal review processes to maintain compliance with state and federal reporting requirements.

The bill also removes embezzlement as a non-expungable offense under Section 29-3A-5, NMSA 1978. The New Mexico Sentencing Commission reports that since the start of FY24, there have been 340 unique charges of embezzlement, with 62 resulting in convictions across various offense levels. Expungement petitions related to these convictions could increase workload demands on agencies responsible for processing record modifications, though the potential volume of such petitions is unknown.

While some agencies do not anticipate a fiscal impact, DPS projects increased operational costs related to staffing, technology updates, and compliance monitoring. These costs may offset any administrative savings from reduced notification processing.

## **SIGNIFICANT ISSUES**

SB467 expands access to criminal record expungement by allowing individuals convicted of embezzlement to petition for record clearance. Embezzlement convictions range from petty misdemeanors to second-degree felonies, depending on the value of embezzled funds. The bill does not differentiate between offense levels, making all degrees of embezzlement potentially eligible for expungement. This change could have implications for employers, licensing boards, and financial institutions that rely on criminal background checks for regulatory compliance.

Additionally, SB467 removes the requirement that courts issue an expungement order within 30 days of a hearing, granting judges greater flexibility. The practical impact of this change will likely depend on court caseloads and procedural variations across jurisdictions.

While the bill simplifies notification requirements by limiting required notice to the district attorney’s office, it does not specify alternative methods for updating DPS and law enforcement databases. The potential impact on recordkeeping accuracy and compliance with federal

reporting requirements remains unclear.

## **PERFORMANCE IMPLICATIONS**

The removal of the 30-day requirement for courts to issue expungement orders could introduce variability in processing times across jurisdictions, depending on court workload and procedural differences. This could increase wait times for petitioners in some cases while allowing courts greater flexibility in case management.

The elimination of direct notification to DPS may also impact agency tracking and verification of expunged records. Without a structured court notification system, agencies responsible for criminal history databases may need to develop alternative tracking methods, which could affect processing efficiency and data accuracy.

Expanding expungement eligibility to embezzlement convictions could also affect background check procedures for employment and licensing purposes. Agencies and employers that rely on criminal history screenings may need to adjust internal processes to account for the removal of financial crime records from state databases.

## **TECHNICAL ISSUES**

DPS noted that the bill does not establish clear procedural safeguards to ensure compliance with federal criminal history reporting requirements. As New Mexico's designated criminal history repository, DPS must maintain and update records in national databases such as the Interstate Identification Index, the National Crime Information Center, and the National Instant Criminal Background Check System. Without a statutory notification requirement, DPS may face challenges in ensuring timely and accurate updates to these federal systems, potentially leading to discrepancies between state and federal records.

SS/rl/SL2