

LFC Requester:	Chavez
-----------------------	---------------

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: Jan 23, 2025 *Check all that apply:*
Bill Number: HB 98 Original Correction
 Amendment Substitute

Sponsor: Rep Anyanonu **Agency Name and Code** AOC 218
Short Title: Automatic Expungement of Eviction Records **Number:** _____
Person Writing Celina Jones
Phone: 505.470.3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 98 requires a court or agency holding eviction records to expunge, or destroy, the records five years after the eviction occurred. HB 98 also specifically requires the administrative office of the courts (“AOC”) to create a pathway for persons to confirm or request expedited expungement of eligible court records.

FISCAL IMPLICATIONS

A significant focus of HB 98 is court records, because background checks to identify an eviction history for a potential tenant will almost always include a search for relevant court records. The expungement requirements of HB 98 will require an initial project to identify and expunge existing eligible eviction records, as well as an ongoing effort to ensure that records that become eligible due to their age are timely expunged. AOC estimates that the initial expungement effort will cost \$50,000. Ongoing expungement efforts would require only a partial FTE.

SIGNIFICANT ISSUES

- 1) 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 (2023). 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.
- 2) 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 timely expunged in the future.
- 3) **Traditional expungement v. automatic expungement:** The Criminal Record Expungement Act, 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:
 - a) Wrongful identification of a person in arrest records due to identity theft;
 - b) Release of a person without conviction; and
 - c) 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.

- 4) According to the Office of Housing Counseling and New Mexico Center for Housing Law, eviction cases significantly impact New Mexicans, with nearly 15,000 eviction cases filed in the state over the past year in 2023. *USBC*, www.unitedsouthbroadway.org/eviction-sealing-should-top-new-mexicos-legislative-housing-agenda.
- 5) Efforts to remove eviction records from public access are increasing across the United States. See “Mapping the Growth of Eviction Record and Tenant Screening Protections.” *PolicyLink*, www.policylink.org/mapping-the-growth-of-eviction-record. Accessed 23 Jan. 2025.

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"> a. The parties file a joint stipulation requesting relief. b. The case was dismissed. c. The case was resolved by settlement or stipulation, and the defendant complied with the terms of the agreement. d. A default judgment was entered against the defendant, and the defendant satisfied any monetary award included in the judgment. e. 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"> a. During any 12 months, the defendant has had a judgment entered against them in two or more eviction proceedings. b. 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: “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.” 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>
-----------	---------------------------	---	---

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS