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Bureau of Criminal Apprehension

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May 11, 2023

Dear Conferees,

I am writing regarding Article 5 of the Omnibus Cannabis bill (H.F. 100) to automate expungements. The current effective date in the bill requires the Minnesota Bureau of Criminal Apprehension (BCA) to automatically expunge (seal) a number of misdemeanor and petty misdemeanor marijuana-related offenses maintained in the state Criminal History System (CHS) by August 1, 2023.

While BCA supports the intent of quickly expunging or sealing these records as they will no longer be deemed criminal offenses; unfortunately, BCA is unable to make the technical, programmatic changes to the state's CHS by the August 1, 2023 deadline and will not be in compliance should this effective date pass. In the fiscal note submitted for H.F. 100, BCA indicated an August 1, 2024 effective date would be the earliest date at which the Bureau could comply. BCA is committed to the accuracy and completeness of criminal history records due to the sensitive information that potentially impacts individuals' employment, housing and other opportunities.

BCA's technical team and business subject matter experts conducted a high-level analysis to determine the cost estimates and timeline for implementing the automated expungements per the language in the bill for the fiscal note. After further review requested by the House author, Representative Stephenson, those estimates were confirmed.

CHS is a very complex system built as a customized solution for Minnesota on a vendor-developed platform that was deployed in 2018. While CHS has automated many processes and made more data readily-available, any functional changes require significant analysis, development and testing. BCA intends to work with the Department of Administration and MNIT to expedite the procurement process to execute agreements with contractors as quickly as possible. Much more detailed analysis will need to be conducted before development can start. As the development progresses, extensive testing for quality assurance will need to be completed to ensure the accuracy of the records.

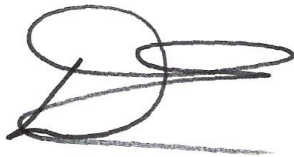
Assuming that the “Clean Slate Act” passes, included in the Judiciary and Public Safety Omnibus conference committee report , BCA will be working on the automated expungement provisions included in the Clean Slate language in parallel with the Cannabis expungements. While this adds some complexity to the development and code structure for CHS, not doing so would still not allow the BCA to meet the effective date currently in the Cannabis bill. By concurrently working on expungement changes in the CHS the BCA will not jeopardize the current January 1, 2025 effective date for Clean Slate automated expungements and to ensure Clean Slate is implemented as intended by the legislature.

BCA will also need to work collaboratively with the judicial branch and local law enforcement agencies to provide the expungement notifications as required by the bill. In addition, Minnesota is a statutory a member of the National Crime Prevention and Privacy Compact with other states which requires that these criminal history records remain available for viewing by other states until a court order is issued. Criminal history records will be automatically sealed in Minnesota as soon as the system programming is complete. BCA will have to create a bifurcated sealing process in order to accomplish this requirement.

All of these factors contribute to the BCA’s estimated timeline for completing the automated expungements related to the Omnibus Cannabis bill. However, BCA is willing to work with the legislature on possible short-term options such as including a notice on criminal history records that certain marijuana-related offenses are no longer criminal offenses as of the effective date and adding information to the BCA’s public website and the BCA’s Public Criminal History System website regarding the impact of the new law.

While the August 1, 2023 effective date is not feasible, BCA is committed to prioritizing this effort and doing whatever is necessary to meet the August 1, 2024 timeline and to ensuring the accurate dissemination of criminal history records. Thank you for your consideration, and please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Evans". The signature is stylized with a large, looping initial "D" and a horizontal line extending to the right.

Drew Evans, Superintendent
Minnesota Bureau of Criminal Apprehension