

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number: SB22 Revised**

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** McDougale

**3. Committee:** Passed Senate

**4. Title:** Police and court records; expungement of certain offenses.

**5. Summary:** The proposal allows a person to petition for expungement of convictions and deferred disposition dismissals for marijuana possession, underage alcohol possession, and using a false ID to obtain alcohol when the offense occurred prior to the person's 21st birthday and five years have elapsed since the date of completion of all terms of sentencing and probation.

**6. Budget Amendment Necessary:** Yes. Item 422.

**7. Fiscal Impact Estimates:** See Item 8.

**8. Fiscal Implications:** According to the Department of State Police (Department), the proposal affects the Virginia State Police Central Criminal Records Exchange (CCRE) that is used to check and update the Virginia's Computerized Criminal History (CCH) system. The implementation of this legislation would create a fiscal impact due to the costs associated with modifying the CCH to allow for the expungement of convictions and additional personnel required to process expungements.

The CCH is a system that tracks all criminal cases and dispositions. It is also where the criminal history data is maintained. Because it is written in outdated technology, the CCH system is currently in the process of being replaced from COBOL to Java based system. It is anticipated that the replacement efforts will be completed on or about April 2017. According to the Department, there is a risk of system failure if any delay occurs in the implementation of the new system.

However, to implement the legislation as proposed, the Department's IT staff has determined that additional modifications, beyond what is currently underway, will be necessary thus delaying the current project for three (3) months. The costs related to the schedule delay will vary depending on when the additional work is to be implemented.

If the required modifications, which would allow expungement of convictions, are conducted after April 2017, the Department's IT staff estimates the cost to be at \$39,323. The expungement of convictions is a new category of expungement that the Department will be required to process in order to meet the provisions of the legislation. Currently, State Police processes expungements related only to dismissals, nolle prosequi, and acquittals.

If, however, the modifications required are implemented between February 2016 and April 2017, work on the project would increase substantially, thereby increasing the costs by an additional \$600,000, for a total of \$639,323 (three month delay at \$200,000 per month and \$39,323). The scope of the required modifications to the CCH system would be extensive and time intensive.

The Department also believes that further delay to the CCH replacement project may add other risks to the project, such as scope change and modifying code that is under development, project staff retention, and possible legacy system failures. While these risks may result in additional cost increase to the project, it is not feasible to calculate the actual cost at this time.

In addition, the Department's Criminal Justice Information Services Division (CJIC) will require additional personnel to meet the provisions of the proposal. The Department expects that the number of individuals seeking expungement would far outpace the number of expungement orders the CJIC expungement section currently receives for non-convictions. Having a criminal conviction expunged may considerably increase employment opportunities for a job seeker, and therefore, the Department has stated that the number of applications for processing convictions expungements could be higher. A letter of notification is sent to all entities that received a copy of the record to include the original arresting agency. In acquittal, dismissal, or nolle prosequi cases the notification is only sent to the criminal agency. The Department believes that the notification process for expunged convictions will be more resource extensive.

The expungement section has processed an increasing number of expungement over the years, while the number of employees has remained static. According to the data provided by the Department, currently, as the expungement statute exists, the expungement section is averaging 2,935 expungements per year (2005-2015). To date there are additional 45,000 misdemeanor convictions for persons who were under 21 years of age at the time of arrest for possession of marijuana and underage possession of alcohol that would potentially be eligible for expungement under the proposal. This represents the total number of people who could have their records expunged pursuant to the legislation.

It is not feasible to accurately calculate the potential impact of this legislation due to unknown factors; therefore, certain assumptions have been made when evaluating the impact of the legislation. For instance, it is unknown how many people will apply for conviction expungements once they become eligible, and when applications will be submitted, as these factors will affect the expungement workload of the Department.

The Department has stated they will need additional eight (8) positions to support the implementation of the proposed bill. However, they have specifically stated that, in the short term, they will absorb four (4) of those positions within their current resources. The Department will review its workload once the bill is implemented and seek additional resources, if necessary, at the appropriate time.

However, at a minimum, the Department will require four (4) additional positions out of the eight (8) positions it originally estimated: three (3) Program Support Technicians, and one (1) Office Services Specialist, at the total first year cost of \$265,709 and the second year cost of \$259,309 (the higher funding amount required in the first year includes one-time nonpersonnel costs).

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** To accommodate the current Department of State Police CCH legacy replacement project scheduled for completion on or about April of 2017, and to provide the Department adequate time to implement the required IT modifications under the proposal, it is suggested that the provisions of the proposal have a delayed effective date. This would also reduce the fiscal impact related to the IT cost (CCH system modification) to \$39,323.