

Department of Planning and Budget 2017 Fiscal Impact Statement

1. **Bill Number:** HB1908

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Heretick

3. **Committee:** Courts of Justice

4. **Title:** Expungement of police and court records.

5. **Summary:** Provides that a court that enters a nolle prosequi for a criminal charge or dismisses such charge for any reason may, upon motion of the person charged and with the agreement of the attorney for the Commonwealth, enter an order requiring the expungement of the police and court records relating to the charge.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** Indeterminate. See below.

8. **Fiscal Implications:** The Department of State Police (Department) maintains the Central Criminal Records Exchange, which maintains criminal history records for the Commonwealth for use by criminal justice entities and for noncriminal justice purposes. The Department of State Police currently processes expungement of records ordered by the court, upon petition of an individual charged with a crime(s) in which the court rendered a disposition of not guilty; dismissal; nolle prosequi; and for individuals who received an absolute pardon. Also under current law, when a charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant, indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the record(s). The proposed legislation would provide that for any dismissal or nolle prosequi, the court dismissing the charge or entering the nolle prosequi may, upon motion of the person charged, and with the agreement of the attorney for the Commonwealth, enter an order requiring expungement of the police and court records relating to the charge.

The proposed bill could increase the potential number of expungements that the Department would have to process, therefore it may require additional funding and positions. According to data submitted by the Department, there were 144,959 dismissed and nolle prosequi cases in 2016. In FY 2016, 3,845 records were ordered to be expunged by the courts, which represents 2.65 percent of all dismissal and nolle prosequi cases in FY 2016. If, as a result of the proposed legislation, the percent of cases ordered expunged increased from 2.65 percent to three percent, the number of expungements would increase by 507 per year above the 3,845 processed in FY 2016. If, as a result of the proposed legislation, the percent of cases ordered expunged doubled from 2.65 percent to 5.3 percent, the number of expungements

would increase by 3,845 above the expungements the Department handled in FY 2016. According to information provided by the Department, its Criminal Justice Information Services (CJIS) Expungement Section can process 4,000 expungements a year at current funding levels. The CJIS Expungement Section processes an average of 3,791 expungements per year. However, because it is not known how many motions would be made, and how many those would be granted by courts, it is not feasible to estimate the additional funding and positions that would be needed to support the additional case load on the Department. If the number of expungements increased to three percent of all nolle prosequi and dismissal cases, the Department may need \$69,053 in the first year, and \$67,453 in the second year, for an additional Program Support Technician to process expungements. The Department estimates an additional FTE can process 444-450 expungements per year.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.