

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number:** SB796

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

**2. Patron:** McDougle

**3. Committee:** Courts of Justice

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

**5. Summary:** 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 twenty-first birthday; all court costs, fines, and restitution have been paid; 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 may 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. 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, the Department processes expungements related only to dismissals, nolle prosequi, and acquittals.

In the last few months, the Department has been upgrading the legacy CCH platform from COBOL to Java based system. It is anticipated that the replacement efforts will be completed on or about April 2017. Assuming the legislation becomes effective July 1, 2017, the Department estimates a one-time cost of \$39,323 to design, modify and test the system to accommodate expungement of convictions.

In addition, the Department's Criminal Justice Information Services Division (CJIC) will require additional personnel to meet the provisions of the proposal. Having a criminal conviction expunged may considerably increase employment opportunities for a job seeker, and therefore, the Department stated that the number of applications for processing convictions expungements could be higher.

The Department has stated that there is a manual process of expunging records. 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

justice agency. Employers are only notified of convictions. The Department stated that they believe that the notification process for expunged convictions will be more resource extensive.

According to the data provided by the Department, currently, as the expungement statute exists, the expungement section is averaging 3,791 expungements per year (2011-2016). According to the Department, to date there are an additional 52,000 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 this proposed legislation. This represents the total number of people who could have their records expunged pursuant to the legislation. However, it is not clear how many of these would petition to have their records be expunged in any given year. The Department, however, estimates that approximately 3,400 could be eligible per year ongoing.

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 at the Department.

However, at a minimum, the Department will require two (2) additional positions to meet the provisions of the proposal. The estimated cost for the two positions (Program Support Technicians), is \$103,740 for the first year and \$100,540 for the second year, going forward (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:** No.