

## Department of Planning and Budget 2018 Fiscal Impact Statement

**1. Bill Number: SB 334**

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

**2. Patron: Peake**

**3. Committee: Appropriations**

**4. Title:** Expungement of criminal history records

**5. Summary:**

The proposed legislation would expand the authorization for certain persons to petition the court for expungement of police records and court records relating to his/her charge to include persons charged of underage consumption or possession of alcohol or use of a false identification to try to purchase alcohol, under the following conditions:

1. The charge was deferred and dismissed;
2. All court costs and fines and orders of restitution have been satisfied;
3. The person seeking the expungement is at least 21 years old; and
4. The person seeking the expungement has no other alcohol-related convictions.

Currently, the only persons authorized to petition for expungement are those who have been acquitted or a *nolle prosequi* was taken and anyone whose name or other identification was used without his/her consent by another person who was charged and arrested using such name or identification.

For any expungement of the court and police records authorized by the legislation, it would require that the petitioner pay a \$150 fee, in addition to any other applicable court costs. That fee would be deposited into a special fund for the State Police.

**6. Budget Amendment Necessary:** Indeterminate.

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

**8. Fiscal Implications:**

The process set up in law for police and court records to be expunged involves the circuit court of the jurisdiction in which the case was disposed, the attorney for the Commonwealth, and the State Police, culminating in a hearing by the circuit court. According to data provided by the Virginia State Police, there are 2,740 cases of underage alcohol possession

charges deferred and dismissed in the past, which would potentially be eligible to file a petition for expungement of those court records. In addition, the agency estimates there would be an additional 443 cases potentially eligible for expungement in each year going forward. However, information on the payment of court costs, fines, and restitution or on the existence of other alcohol-related convictions is not readily available. Therefore, although a significant percentage of this group may petition for expungement of their records, it is not possible to develop a reliable estimate.

The State Police currently have eight employees that annually process approximately 4,000 expungement petitions, for an average of 500 per employee. To process the additional petitions, in a timely fashion, that could be expected, the agency may need additional staff. The total annual cost of a program support technician in the unit is \$69,575. The revenue from the \$150 additional fee, which the proposed legislation would require be collected for each expungement of the records of a deferred and dismissed first-time underage alcohol possession charge, would be dedicated to the State Police and could be used to offset the costs of implementing the legislation. Until there is data available on the number of expungements that would result from the legislation, it cannot be known whether that additional revenue will be sufficient to offset any additional costs.

**9. Specific Agency or Political Subdivisions Affected:**

Circuit courts  
Attorneys for the Commonwealth  
Virginia State Police.

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** There is a separate enacting clause making the provisions of the legislation contingent upon the inclusion of an appropriation in the budget bill effectuating its purposes.