

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1037 S1

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

2. Patron: Peake

3. Committee: Courts of Justice

4. Title: Underage alcoholic possession, etc.; expungement of certain offenses.

5. Summary: Allows a person to petition for expungement of a deferred disposition dismissal for underage alcohol possession or using a false ID to obtain alcohol under the following conditions:

1. when the offense occurred prior to the person's twenty-first birthday;
2. all court costs, fines, and restitution have been paid;
3. the person seeking the expungement is at least 21 years of age; and
4. the person seeking the expungement has no other alcohol-related convictions.

Under current law, only those who have been acquitted or who have taken a *nolle prosequi* are eligible to request expungement of police and court records relating to such a charge.

The substitute bill requires that a petitioner pay a \$150 fee for any expungement sought under the proposed legislation, which shall be paid into the state treasury and credited to the Department of State Police.

6. Budget Amendment Necessary: Yes. Item 419.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below. Nongeneral fund appropriation would be required.

8. Fiscal Implications: This bill is not expected to have an impact on the General Fund; however, a nongeneral fund appropriation will be required to account for revenue generated under the fee established by the proposed legislation.

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 Virginia State Police (VSP), culminating in a hearing by the circuit court. According to data provided by VSP, there are 2,740 deferred dismissed underage alcohol possession cases that would be eligible for expungement under the provisions of this bill. However, it is difficult to reliably estimate the number of expungements that may be sought because i) not all who are eligible are expected to petition for expungement and ii) information on the payment of court costs, fines, and restitution and on the existence of other alcohol-related charges is not readily available.

However, based on average data for the past five years, VSP expects that an additional 443 such cases may be processed each year under the proposed provisions. Currently, VSP has eight employees who processed approximately 4,100 expungement petitions in fiscal year 2018. According to VSP, each employee is expected to process 500 expungement petitions per year. Based on processing the estimated 443 additional expungement cases per year that may result from this bill, VPS estimates that it would require one additional program support technician at a cost of \$69,567 per year (salary plus benefits) to address the increased workload.

Based on VSP's estimate of an additional 443 petitions processed per year, the \$150 fee assessed by the substitute bill per petition would be expected to generate approximately \$66,450 in nongeneral fund revenue. This revenue would be available to offset the need for additional staff. However, the exact amount of revenue generated will depend upon the number of petitions actually processed.

9. Specific Agency or Political Subdivisions Affected: Courts, Attorneys for the Commonwealth, Virginia State Police

10. Technical Amendment Necessary: None

11. Other Comments: None