

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB32

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

2. Patron: Lindsey

3. Committee: Courts of Justice

4. Title: Police and court records; expungement of records for misdemeanor and nonviolent felony convictions.

5. Summary: Provides that any person who has been convicted of a misdemeanor or nonviolent felony and (a) has been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for at least eight years; (b) has no prior or subsequent criminal convictions; and (c) has no pending criminal proceeding, may file a petition for the expungement of the police and court records associated with such conviction. Current law allows for expungement in cases where the person has been acquitted, a nolle prosequi was taken, or the charges were otherwise dismissed.

6. Budget Amendment Necessary: Indeterminate.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: The proposed legislation provides that any individual who has been convicted of a misdemeanor or nonviolent felony and (a) has been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for at least eight years; (b) has no prior or subsequent criminal convictions; and (c) has no pending criminal proceeding may file a petition for the expungement of the police and court records associated with the conviction.

The Department of State Police (VSP) is responsible for expunging records from police files. According to VSP, there are currently 544,863 misdemeanor and nonviolent felony convictions within the Computerized Criminal Records Exchange (CCRE) database. It is unknown how many of these convictions would be eligible for expungement pursuant to the provisions of the proposed legislation, and how many individuals would choose to petition the court for expungement. According to VSP, employees in the expungement section can process approximately 500 expungements per employee per year. The cost for salary and fringe benefits for employees who process expungements is \$69,607 per year. Information technology costs per employee are an additional \$2,310 per year, and depending on the number of additional employees, office space, furniture expenses, and the cost for additional supervisor positions could be required as well.

According to the Office of the Executive Secretary (OES), if the provisions of the bill were to be enacted, the OES would need to perform enhancements to the General District Case Management System that would allow for information from expunged cases to be abstracted and retained for inclusion in statistical reports required by the General Assembly, including models used for determining clerk staffing, judicial workload calculations, and various other data reports that allow for the equitable distribution of resources among the various general district courts. As the case management systems currently exist, once a record is purged OES is unable to determine that such a case was ever filed within the electronic system. The number of cases that are currently expunged each year is relatively minimal when compared to the number that could be expunged based on the provisions of this bill. Therefore, a method of accurately retaining the abstracted information is necessary to ensure the accuracy of case-data-based statistical reports generated by OES.

Abstract information for expunged civil and criminal cases would be retained within an “expungement data vault.” No identifying information for any defendant, including name, full date of birth, or social security number would be included with the abstract information retained in the expungement data vault. Ongoing, statistical reports would need to be modified to include the abstract case data that is retained within the expungement data vault.

To create the expungement data vault, the electronic data warehouse would need to be updated to allow for personally identifiable information and case numbers to be removed from expunged cases. In addition, various developmental enhancements would need to be made to the three existing electronic case management systems maintained by OES including: modifying the “case delete” function and adding an “expungement delete” option within seven divisions, updating the expungement batch jobs for two divisions, and creating new batch reports for two divisions.

The one-time total estimated cost for development, quality assurance analysis, and training of court personnel related to the system enhancements is \$299,402.50.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Courts.
- 10. Technical Amendment Necessary:** No.
- 11. Other Comments:** None.