

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB294

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

2. Patron: Scott

3. Committee: Courts of Justice

4. Title: Expungement of police and court records; misdemeanor convictions.

5. Summary: Provides that an individual who has been convicted of a misdemeanor and (a) has been free from any term of incarceration, probation, and post-release supervision imposed as a result of such conviction for at least two years and (b) has no pending criminal proceeding, may file a petition for the expungement of police and court records. 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: Yes. Items 39 and 425.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: The proposed legislation provides that any individual who has been convicted of a misdemeanor may file a petition for the expungement of his police and court records provided he has been free of any term of incarceration, probation, and post-release supervision for at least two years, and he has no pending criminal proceedings.

The Department of State Police (VSP) is responsible for expunging records from police files. According to VSP, 291,803 misdemeanor convictions have been added to the Central Criminal Records Exchange (CCRE) in the last three years that could meet criteria to be expunged, according to the provisions of this bill. Of these, it is unknown in how many cases an individual would meet the requirements as set out in the proposed legislation, and how many individuals would choose to petition the court for expungement. The expungement section within VSP can process approximately 500 expungements per employee per year. VSP currently has 10 FTE (including one supervisor) in the expungement section; six of these positions handle expungements full time, and the other three support positions and the supervisor assist with additional expungement workload when they are able.

If, as VSP estimates, the agency would have to process 10 percent of newly identified cases, this would immediately generate an additional 29,180 expungements for the agency to process. This would require an additional 58 FTE at an estimated cost of \$4,585,583 annually. VSP estimates it would also need additional office space to house the new employees at a cost of \$223,304 annually with one-time furnishing costs of \$306,243. VSP

also expects to incur additional technology costs, estimated at \$125,433 in FY 2021 and \$97,020 in FY 2022.

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.

OES also estimates the provisions of this bill may increase the workload for court clerks, at approximately ten additional minutes of work per expungement. It is indeterminate at this time how many additional clerk positions the courts would need to respond to the provisions of this bill because it is unknown how many cases would require expungement.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.