

REVISED (1/23/2020)
Department of Planning and Budget
2020 Fiscal Impact Statement

1. Bill Number: HB31

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: Lindsey

3. Committee: Courts of Justice

4. Title: Charges and convictions, certain; expungement.

5. Summary: Provides that an individual who has been convicted of a violation of § 4.1-305 (unlawful purchase or possession of alcohol) or § 18.2-250.1 (misdemeanor possession of marijuana), or if he has had such charges deferred or dismissed, may file a petition for the expungement of police and court records if he was under 21 years of age on the date of the incident, all court costs, fines, and all orders of restitution have been satisfied, and five years have passed since the date of completion of all terms of sentencing and probation. 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 unlawfully purchasing or possessing alcohol, or of misdemeanor possession of marijuana, may petition the court for an expungement if he was under 21 years of age on the date of the incident, all court costs, fines, and orders of restitution have been satisfied, and five years has passed since the date of completion of all terms of sentencing and probation.

The Department of State Police (VSP) is responsible for expunging records from police files. According to VSP, there were an average of 10,655 cases per year under these code sections in which individuals were found guilty, or charges were deferred or dismissed. It is unknown in how many of these instances the person charged was under the age of 21. It is also unknown how many individuals would meet the requirements set out in the bill and 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 each employee 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 and furniture expenses could be required as well.

The fiscal impacted is revised to reflect additional information received from the Office of the Executive Secretary (OES). According to the 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.