

**Department of Planning and Budget
2016 Fiscal Impact Statement**

1. Bill Number: HB74

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

2. Patron: Campbell

3. Committee: Courts of Justice

4. Title: Drug offenses, misdemeanor; expungement of records.

5. Summary: The proposal allows a person convicted of a first offense of possession of controlled substances or marijuana who was not afforded the opportunity to be placed on probation in lieu of a conviction to petition to have his conviction expunged after a 10-year period has expired following the conviction.

6. Budget Amendment Necessary: Yes. Item 422.

7. Fiscal Impact Estimates: Tentative. See Item 8.

8. Fiscal Implications: According to the Department of State Police (Department), the proposal affects the Virginia State Police Central Criminal Records Exchange (CCRE) that checks and updates Virginia's Computerized Criminal History (CCH) system. The implementation of this legislation would create a fiscal impact due to the costs associated with modifying the CCH to allow for the expungement of convictions and additional personnel required to process expungements.

The CCH is a system that tracks all criminal cases and dispositions, and is the official record for the criminal data maintained in Virginia. Because it is written in outdated technologies, the CCH system is currently in the process of being modified from COBOL to Java based system. It is anticipated that the criminal history system replacement effort will be completed on or about April 2017. According to the Department, there is a risk of failure within the system if any delay occurs in the implementation of the new system.

However, to implement the legislation as proposed, the Department's IT staff has determined that additional modifications, beyond what is currently underway, will be necessary thus delaying the current project for ten (10) months. The costs related to the schedule delay will vary depending on when the additional work is to be implemented.

If the required modifications, pursuant to the proposed legislation, are conducted after April 2017, the Department's IT staff estimates the cost to be at \$711,360.

If, however, the change is required between February 2016 and April 2017, the risk to the project would increase substantially and the project costs would increase by an additional \$2,000,000, for a total of \$2,711,360 (ten month delay at \$200,000 per month and \$711,360). The scope of the required modifications to the CCH system, in order to implement the changes proposed by the legislation, is extensive and time intensive. These factors increase the overall risk to both the legacy and the new CCH system under development. Should the legislation be enacted prior to migrating to the new CCH system, the required modifications will have to be performed twice: once on the legacy system, and once on the new system.

The Department also believes that further delay to the CCH replacement project may add other risks to the project, such as scope change and modifying code that is under development, project staff retention, and possible legacy system failures. While these risks may result in substantial cost increase to the project, it is not feasible to calculate the actual cost at this time.

Additionally, the Department's Criminal Justice Information Services Division (CJIC) expungement section will require eight (8) new personnel to meet the provisions of the proposal. The Department expects that the number of individuals seeking expungement would far outpace the number of expungement orders the CJIC expungement section currently receives. The additional positions required to process expungements include one Office Services Supervisor, four Program Support Technicians, two Office Services Specialists, and one Office Services Assistant at the total first year cost for these eight positions at \$530,546, and the second year cost at \$517,746 (the higher funding amount required in the first year includes one-time nonpersonnel costs).

Over the years, the expungement section has processed an increasing number of expungements, while the number of the section employees remained static. According to the data provided by the Department, currently, as the expungement statute exists, the expungement section is averaging 2,935 expungements per year (2005-2015). According to the Department, there are additional 47,000 misdemeanor convictions to date that would potentially be eligible for expungement under this proposed legislation.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Courts, and Commonwealth's Attorneys.

10. Technical Amendment Necessary: No.

11. Other Comments: To accommodate the current CCH legacy replacement project scheduled for completion on or about April of 2017, and to provide the Department adequate time to implement the required IT modifications under the proposal, it is suggested the bill have a delayed effective date.

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