

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1168

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

2. Patron: DeSteph

3. Committee: General Laws and Technology

4. Title: Department of Professional and Occupational Regulation; regulatory boards; expungement.

5. Summary: Authorizes any regulatory board within the Department of Professional and Occupational Regulation to expunge the disciplinary record of a regulant, provided that (i) the regulant's written application for expungement is made at least five years from the date of final disposition of the disciplinary record, (ii) the disciplinary record is the only disciplinary record that the regulant has with a regulatory board, (iii) the regulant is not the subject of an active investigation related to professional or occupational conduct, (iv) the regulant is not in a current disciplinary status and any fees or fines assessed have been paid in full, and (v) the regulant has not had a disciplinary record previously expunged by the regulatory board. The bill defines "expungement" as the removal of a disciplinary record by (a) permanently sealing the affected record from public access, (b) deeming the proceedings to which the affected record refers as not having occurred, and (c) affording the affected party the right to represent that no record exists regarding the subject matter of the affected record. Under the bill, a regulatory board may use a previous discipline for any regulatory purpose or release records of a previous discipline upon request from law enforcement or any other governmental body as permitted by law.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary. See Item 8, below.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	0	0	n/a
2020	\$163,405	1.5	NGF
2021	\$153,362	1.5	NGF
2022	\$153,362	1.5	NGF
2023	\$153,362	1.5	NGF
2024	\$153,362	1.5	NGF
2025	\$153,362	1.5	NGF

8. Fiscal Implications: This bill increases the administrative responsibilities of the Department of Professional and Occupational Regulation (DPOR) by authorizing any regulatory board

within DPOR to expunge certain disciplinary records. Current DPOR staff can absorb the additional tasks of reviewing and evaluating expungement applications and presenting such applications to the regulatory board for approval or denial.

Additional administrative responsibilities resulting from this legislation include the removal of all records of the expunged disciplinary cases and maintenance of the expunged records in a separate information system for future reference in subsequent expungement application evaluations. This bill would result in an ongoing need to maintain a parallel information management system with dramatically different data management requirements as well as FOIA response issues. The legal issues associated with the system would involve ongoing oversight of the system.

These additional responsibilities cannot be absorbed by DPOR's current staffing in its Information Management section as according to DPOR, the section is already at capacity. One full-time classified general administrative coordinator position and one part-time wage records specialist would be needed to establish and manage the parallel information management storage/disclosure system, ensure thorough removal of all records of expunged cases, and provide clerical support for the information management system. The total cost of salary, wages, and benefits for the two positions, based on the mid-point for the band 4 salary range and current wage employees' hourly rate, is expected to be \$116,205 in FY2020 (assuming 23 pay periods) and \$120,162 annually beginning in FY 2021. This is a recurring cost that will continue into future years.

In FY 2020, DPOR will need to purchase furniture and equipment for the new positions at an estimated cost of \$14,000. This is a one-time expenditure that will not continue into future years. Other operating costs beginning in FY 2020 and recurring in future years include telephone, employee development, computer operating support, and supplies. These costs are estimated at \$33,200 each year for both positions. The cost of the information management storage/disclosure system is indeterminate at this time. A budget amendment is not needed.

In accordance with the provisions of Section 54.1-113 (Callahan Act) of the Code of Virginia, licensing fees are established at rates adequate to cover a program's operating costs and a proportionate share of agency support costs. The regulatory boards' current cash and revenue are anticipated to be sufficient for the next biennium to cover the increased costs associated with this legislation.

9. Specific Agency or Political Subdivisions Affected: Department of Professional and Occupational Regulation.

10. Technical Amendment Necessary: No.

11. Other Comments: None.