

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB254

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

**2. Patron:** Simon

**3. Committee:** Courts of Justice

**4. Title:** Expungement of certain offenses.

- 5. Summary:** Provides that an individual may file a petition for the expungement of police and court records if (a) the person is charged with a violation of § 4.1-305 (unlawful purchase or possession of alcohol) and the charge is deferred and dismissed; (b) the person was under 21 years of age on the date of the incident leading to the dismissal; (c) all court costs and fines and all orders of restitution have been satisfied, and (d) the person seeking the expungement is at least 21 years of age and has no other alcohol-related convictions. Current law allows for expungement in cases where the person has been acquitted, a nolle prosequi was taken, or the charges were otherwise dismissed.

The bill provides that the costs of expungement are not refunded to the petitioner in such cases. Such petitioners must pay an additional \$150 fee to be assessed to the petitioner, which shall be paid into the state treasury and credited to the Department of State Police (VSP).

**6. Budget Amendment Necessary:** Yes. Items 39 and 425.

**7. Fiscal Impact Estimates:** Preliminary. See below.

- 8. Fiscal Implications:** The proposed legislation provides that an individual who has been charged with the unlawful purchase or possession of alcohol in cases where the charge is deferred and dismissed may petition for the expungement of police and court records if the person was under 21 years of age at the time of the incident, all court costs, fines, and orders of restitution have been satisfied, and the person seeking expungement is at least 21 and has no other alcohol-related convictions.

The Department of State Police (VSP) is responsible for expunging records from police files. According to VSP, there are approximately 29,822 convictions in the Central Criminal Records Exchange (CCRE) database that could meet criteria for expungement, according to the provisions of this bill. It is unknown in how many of these instances the persons charged would meet the qualifications set forth in the proposed legislation, 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 bill provides that such petitioners must pay an additional \$150, payable to the state treasury and allocated to VSP, upon the filing of such a petition. It is unknown how much revenue VSP would collect as a result of the provisions of this bill, and if it would be sufficient to cover these costs.

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, Courts.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill is a companion to SB118.