

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: SB5006

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: Norment

3. Committee: Judiciary

4. Title: Expungement of police and court records; pardons.

5. Summary: Provides that an individual who has been convicted of a crime for which the Governor has granted a simple pardon to the person for the commission of the crime or offense may file a petition for the expungement of police and court records for said conviction. The bill requires that the petitioner has been of good behavior for the five years preceding the filing of his petition and that the conviction is not for a violent felony, as defined elsewhere in the Code. The conviction may also not be a violation of any of the following: § 18.2-248 (manufacture, sell, etc., or possess with intent to manufacture, sell, etc. controlled substances); § 18.2-248.01 (transport controlled substances); § 18.2-248.1 (sell, give, distribute, or possess with intent to sell, etc. marijuana); § 18.2-255 (distribute drugs to persons under 18 years of age); § 18.2-255.2 (sell or manufacture drugs on certain properties); § 18.2-258.02 (maintain a fortified drug house); or § 24.2-1016 (election fraud). 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, Item 425.

7. Fiscal Impact Estimates: Preliminary. See below.

8. Fiscal Implications: The proposed legislation provides that an individual who has received a simple pardon from the Governor for his crime may petition for the expungement of police and court records for said conviction. The bill requires that the petitioner has been of good behavior for the five years preceding the filing of his petition, and that the conviction was not for a violent felony, certain drug offenses, or election fraud. 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 Department of State Police (VSP) is responsible for expunging records from police files. According to data from the Secretary of the Commonwealth, between calendar years 2014 and 2019, there were an average of 60 simple pardons granted per year. According to VSP, employees in the expungement section 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.

However, it is unknown at this time how many individuals would receive simple pardons in the future, and how many of those would choose to petition the court for expungement.

VSP may need one additional employee to process the potential additional caseload generated by this bill if there is an increase in workload. The cost for salary and fringe benefits for each employee is \$72,537 per year (prorated to \$60,447.50 in the first year). Information technology costs per employee are an additional \$1,991 in the first year and \$1,540 in the second year. One-time furniture expenses per employee are \$4,861 in the first year.

According to the Courts, any potential fiscal impact as a result of this bill is likely to be minimal if the number of statewide pardons per year remains at approximately 60.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.