

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB564S1

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

2. Patron: Lucas

3. Committee: Finance and Appropriations

4. Title: Sealing of offenses resulting in a deferred and dismissed disposition or conviction.

5. Summary: Changes from seven to three years the amount of time that must have passed since the date of the deferral and dismissal or conviction for certain offenses to be automatically sealed.

The bill also provides that, except for a conviction or deferral and dismissal of a violation of §§ 18.2-36.1 (conduct punishable as involuntary manslaughter), 18.2-36.2 (involuntary manslaughter), 18.2-51.4 (maiming of another resulting from driving while intoxicated), 18.2-51.5 (maiming of another resulting from operating a watercraft while intoxicated), 18.2-57.2 (assault and battery against a family or household member), 18.2-266 (driving a motor vehicle while intoxicated), or 46.2-341.24 (driving a commercial motor vehicle while intoxicated), a person who has been convicted of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 (grand larceny) or any other felony offense in which the defendant is deemed guilty of larceny may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records relating to the charge or conviction, including any records related to any violation of the terms and conditions of a suspended sentence or probation for such conviction that were specifically set forth in the petition to be sealed, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, or (c) not been convicted of any other felony within the past 10 years of his petition.

The bill also eliminates a current requirement that petitioners pay fees and costs related to filing the petition; under current law, fees and costs are only waived when the court finds the filer to be indigent. Additionally, the bill eliminates a current lifetime limit of two expungement petitions granted per individual. For petition-based sealing, the bill amends from seven to three years for a misdemeanor and from 10 to seven years for a felony the length of time that must have passed since the dismissal, conviction, or release from incarceration before an offense is eligible to be sealed.

6. Budget Amendment Necessary: Indeterminate.

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

8. Fiscal Implications: The proposed legislation is not anticipated to have a fiscal impact on the Department of State Police.

According to the Courts, petitioners for expungement who are not found to be indigent currently pay \$98 per petition, and this is used by the Courts for various functions. Because the proposed legislation eliminates these fees and costs, the Office of the Executive Secretary (OES) believes this will likely have a fiscal impact on revenues, but the estimated amount is indeterminate at this time. Additionally, because the bill eliminates the current limit of two petitions filed per person, this may result in more petitions being filed and an increase in workload. However, the OES is not able to determine the size of that impact at this time.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.