

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB838ER

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

2. Patron: Hope

3. Committee: Passed in both Houses.

4. Title: Expungement of police and court records.

5. Summary: This bill provides that for the purposes of expungement of police and court records the term "otherwise dismissed" means to render a legal action out of consideration in a different way or manner than a nolle prosequi or formal dismissal by the trial court. The bill specifies that the term "otherwise dismissed" also includes those circumstances when a person is charged with the commission of a crime, a civil offense, or any offense defined in Title 18.2 and the initial charge is reduced or amended to another offense, including a lesser included offense or the same offense with a lesser gradient of punishment, so that such person is not convicted of the initial charge.

Under current law, a court must enter an order of expungement when information relating to an arrest causes or may cause circumstances that constitute a manifest injustice to the petitioner. This bill provides that if a court finds that the continued existence and possible dissemination of information relating to an arrest may cause circumstances that constitute a manifest injustice, including any hindrance to obtain employment, an education, or credit, it must enter an order requiring the expungement of the police and court records. Additionally, this bill allows that when an initial charge has been reduced or amended to another offense for which reporting to the Central Criminal Records Exchange (CCRE) is still required pursuant to § 19.2-390 and an order of expungement is granted for the initial charge, the CCRE must amend the original arrest but maintain the fingerprints collected from the original arrest.

6. Budget Amendment Necessary: Yes, Item 415.

7. Fiscal Impact Estimates: Final, see Item 8 below.

8. Fiscal Implications: The Department of State Police (VSP) estimates that there are 289,953 records in VSP's Computerized Criminal History (CCH) system that would meet the criteria outlined in the bill. At this time, VSP cannot determine how many individuals would take advantage of this expungement. Currently, petitions for expungements are processed manually in the current CCH system. The existing staffing level of the Department's expungement unit is eight technicians and one supervisor. However, this process will become more automated and streamlined with the full implementation of the Criminal and Rap Back Information System (CRIS) project, for which the first phase is scheduled to be implemented

in calendar year 2025 and full implementation is expected in mid-calendar year 2026. Once fully implemented, CRIS will replace the current CCH system.

With an enactment date of 2024 for this bill, VSP reports it would need to hire contractors to meet the potential increase workload until full CRIS implementation. Although it is not known how many of the 289,953 potential expungement cases would be acted upon, the anticipated workload per contractor is 500 cases per year. One contractor's estimated annual general fund cost is \$24,500. The number of contractors needed will depend on the number of individuals who act upon expunging their records. Additionally, VSP estimates it would need to hire a supervisor contractor for every ten non-IT contractors. The estimated annual general fund cost per supervisor is \$29,400. Not included in the personnel cost are costs associated with office space, IT hardware, and other equipment, which will depend on the number of contractors needed.

Additionally, upon further review of this bill by VSP, the agency reports it has received an updated quote from the vendor implementing the CRIS project. Since the bill would become effective date on July 1, 2024, which is prior to the CRIS system being fully operational, VSP reports that it would need to modify the current CCH system to perform the tasks required by the bill. The estimated one-time cost for the CCH modifications is \$210,720. In addition to having to modify the CCH system, certain aspects of the CRIS implementation will also have to be reworked, which is expected to delay full implementation. VSP now reports that the vendor estimated that the delay would cost up to \$1,917,560 for additional IT development related to the CRIS project.

According to the Office of the Executive Secretary of the Supreme Court (OES), the impact this bill would have on courts will depend on the number of cases that qualify for expungement.

9. Specific Agency or Political Subdivisions Affected: Courts and state and local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.