

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB742E

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

2. Patron: Surovell

3. Committee: Passed the Senate.

4. Title: Expungement of offenses civil penalty.

5. Summary: Provides that an indigent person may file a petition for expungement without the payment of fees and costs, and can request court-appointed counsel, who shall be paid from the Sealing Fee Fund, to file the petition for expungement and represent the petitioner in the expungement proceedings. The bill clarifies that this subsection does not limit the ability of a nonprofit legal aid program or legal aid society from providing pro bono legal services or representation to any person.

Additionally, the bill provides for the automatic sealing of records for persons charged with any criminal or civil offense when such offense was a misdemeanor violation of the former § 18.2-248.1 (sell, give, or distribute marijuana) or the former § 18.2-250.1 (misdemeanor possession of marijuana), and the offense was deferred and dismissed. The bill also permits persons with either a conviction or deferral and dismissal of a felony violation of the former § 18.2-248.1 to petition the court for the sealing of the criminal history record information and court records related to the charge or conviction, including any records related to any violation of the terms and conditions of a suspended sentence or probation for the conviction that were specifically set forth in the petition to be sealed. The bill specifies that a petition granted solely to seal a felony violation of the former § 18.2-248.1, a violation of § 18.2-265.3(A) (possession of drug paraphernalia) as it relates to marijuana, or a petition that is granted to seal a violation of the terms and conditions of a suspended sentence or a probation violation shall not count against the petitioner's lifetime maximum of two petitions granted. The bill requires a business screening service to destroy all expunged records and to follow reasonable procedures to ensure that it does not maintain or sell expunged records.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: 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. The proposed legislation is not anticipated to have a material fiscal impact on the Courts. There is no anticipated fiscal impact on the Department of State Police as a result of the provisions of this bill.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.