

SB504
Department of Planning and Budget
2024 Session Fiscal Impact Statement

1. Bill Number: SB504S2

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. Patron: Surovell

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 relevant law 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 and may file a petition requesting expungement of the police and court records relating to 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 unless the subject of the criminal record requests otherwise, any person who files an expungement petition shall be allowed to proceed under a pseudonym and that such designation shall apply in the trial court and on any appeal. The bill allows for the expungement of any emergency or preliminary protective order that was attached or factually related to an expunged charge or offense, provided that a permanent protective order was not ordered as a result of such emergency or preliminary protective order. The bill also 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.

The bill requires a business screening service, as defined under current law, to destroy, as defined in the bill, all expunged records and prohibits business screening services from disseminating such expunged records in any manner.

The bill also 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 must be paid from the Sealing Fee Fund.

This bill has an enactment date effective on January 1, 2026, except for § 19.2-392.2, subsection F and O.

6. **Budget Amendment Necessary:** Yes, Item 415.
7. **Fiscal Impact Estimates:** Preliminary, 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. VSP cannot determine at this time 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.

VSP reports it would need to hire contractors if the enactment date is prior to the full CRIS implementation, which is expected to be completed by July 1, 2026. Although it is unknown 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. However, the total number of contractors needed will depend on the number of individuals who seek to expunge 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. If there are delays with the implementation of CRIS, contractors may be needed for longer than six months.

VSP reports that the process will be streamlined after CRIS implementation is completed. The Department anticipates a one-time cost of \$417,560 in general fund to automate the CRIS system to execute the expungement process established by the bill. This cost assumes that there are no other unforeseen issues with the implementation of the functionality required by this bill within CRIS.

According to the Office of the Executive Secretary for 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.