

## **Department of Planning and Budget**

### **2022 Fiscal Impact Statement**

**1. Bill Number:** HB322

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** Campbell, J.L.

**3. Committee:** Courts of Justice

**4. Title:** Criminal records; sealing of records.

**5. Summary:** Makes changes to the sealing provisions as they shall become effective pursuant to Chapters 524 and 542 of the 2021 Acts of Assembly, Special Session I, related to the types of offenses eligible to be sealed by petition. The bill removes the requirement that persons who have had felony convictions sealed pursuant to § 19.2-392.12 disclose such sealing for the purposes of determining such person's eligibility to be empaneled as a member of a jury, under penalty of perjury if such failure is knowing or willful. The bill limits offenses that are eligible for sealing by petition to convictions for Class 2, 3, or 4 misdemeanors, or deferrals and dismissals for misdemeanor offenses, Class 5 or 6 felonies, or felony larceny offenses for which a defendant was found guilty, with some exceptions provided for offenses that are not eligible for record sealing. The bill amends a current prohibition against the unlawful disclosure of sealed records; a malicious and intentional disclosure is punishable as a Class 1 misdemeanor pursuant to the bill. Under current law, a willful disclosure is a Class 1 misdemeanor and a malicious and intentional disclosure is a Class 6 felony.

**6. Budget Amendment Necessary:** Indeterminate.

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

**8. Fiscal Implications:** There is no anticipated fiscal impact on the Department of State Police as a result of the provisions of this bill. Information about any potential fiscal impact on the Courts is unavailable at this time. This impact statement will be updated when information becomes available.

The proposed legislation eliminates a Class 1 misdemeanor that is not yet effective for the willful disclosure of sealed records. The bill makes it a Class 1 misdemeanor to disclose such records maliciously and intentionally, instead of the current, but not yet effective, Class 6 felony.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. However, information is not available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held

in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

Any potential fiscal impact on the Department of Corrections as a result of the provisions of this bill is indeterminate at this time. Any potential impact on the Commonwealth's Literary Fund, where civil fines are deposited, cannot be determined at this time.

**9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Corrections, Courts, local and regional jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.