

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB1279

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

2. Patron: Anderson

3. Committee: Courts of Justice

4. Title: Expungement of emergency and preliminary protective orders.

5. Summary: Provides that the person against whom an emergency or preliminary protective order was issued may file a petition requesting expungement of the police and court records relating to the emergency or preliminary protective order if such order expired or was dissolved by the issuing court, or if a hearing for the issuance of a permanent protective order was scheduled or held and such order was subsequently not issued. The bill includes information about where such petitions should be filed, and what should be included in the petition, and requires petitioners to obtain a complete set of their fingerprints from a law enforcement agency for inclusion in their petition for expungement. Local law enforcement agencies must submit the fingerprints to the Central Criminal Records Exchange (CCRE) along with the expungement petition.

6. Budget Amendment Necessary: Yes, Item 429.

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

8. Fiscal Implications: The proposed legislation would require the Department of State Police (VSP) to expunge emergency and preliminary protective orders that did not become full protective orders upon the petition of the person against whom the order was filed. According to VSP, the agency would not have any records to remove from the Central Criminal Records Exchange (CCRE), but it would be responsible for sending letters and obtaining responses from any agency or organization that could reasonably be determined to have records of these orders. In calendar years 2017, 2018, and 2019, there were an average of 64,935 emergency and preliminary protective orders that did not become full protective orders, according to data from VSP. If, as VSP assumes, 10 percent of eligible protective orders are petitioned for expungement each year, this would result in approximately 6,494 additional expungements the agency would need to process annually. Currently, a VSP program support technician can process about 500 expungements per year. Therefore, this bill may require up to 13 additional technicians to process the anticipated increase in expungements. These positions would also require additional office space, furniture, and IT hardware and software costs. The estimated salary (including fringe benefits) for a program support technician is \$83,057 annually. Rent, office furniture, and IT hardware and software costs are estimated to be \$10,422 the first year and \$5,110 the second year.

Additionally, VSP notes that General District Courts (GDC) are required to retain their records for ten years, so in addition to the 6,494 potential protective order expungements VSP expects to process annually, it may also need to process the estimated 64,935 cases in the previous 10 years of GDC case files. It is indeterminate at this time how many petitions for expungement would arise out of those cases, and it is possible VSP may need additional technician positions to process those requests.

Information about any potential fiscal impact on the Courts is unavailable at this time. This impact statement will be updated when information becomes available. Any potential fiscal impact on local law enforcement agencies is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Courts, Commonwealth's Attorneys, Local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.