



2023 Crime Commission Legislative Package

January 10, 2023



Overview

- At the December meeting, members carried over two policy options:
 - DUI Policy Option 6 (DMV report)
 - Expungement and Sealing Policy Option 1
- Update on endorsed items:
 - DUI Policy Options 5 and 7 (blood testing)
 - Recommendation 1 (DUI training)



DUI – Policy Option 6

Policy Option 6: Require the Department of Motor Vehicles' Highway Safety Office (DMV) to collect existing data from various sources on DUI trends and enforcement across Virginia by both locality and individual law enforcement agency and provide an annual comprehensive report on the status of impaired driving in the Commonwealth.



DUI – Policy Option 6

The draft legislation requires:

- DMV to annually collect and report on specific, existing DUI data points;
- Government agencies to provide data to DMV;
- At least 5 years of data in the report, broken down by locality and law enforcement agency; and,
- DMV to publish a report by October 1st of each year, beginning 2024, and provide it to the General Assembly, Governor, and Crime Commission.



Expungement and Sealing

Policy Option 1: Amend the expungement and sealing statutes in order to better facilitate the implementation and programming of the new sealing processes.

- The draft legislation focuses on programmatic issues that need to be addressed in the development of the new sealing processes, with two exceptions:
 - Allowing a person to access their own expunged court and police records; and,
 - Maintaining expungement pleadings under seal.



Expungement and Sealing

The expungement and sealing draft legislation:

- Repeals automatic and petition-based marijuana expungement and moves these to the sealing chapter.
- Repeals automatic sealing of underage alcohol (§ 4.1-305) and moves it to petition-based sealing.
- Repeals limitations on the disclosure of marijuana offenses in the CCRE (§ 19.2-389.3).
- Creates an electronic, name-based criminal history record search to be used when an expungement or sealing petition is filed.



Expungement and Sealing

The expungement and sealing draft legislation:

- Requires the court to maintain a copy of the sealing order and send an electronic notification, instead of an order, to VSP after an offense is sealed.
- Allows courts and Commonwealth's Attorneys to access sealed records that were not properly sealed (in violation of procedures or legal requirements).
- Clarifies that a petition for sealing can only include offenses that stem from the same transaction or occurrence.



DUI – Policy Options 5 and 7

Policy Option 5: Require the Department of Forensic Science (DFS) to test DUI blood samples for the presence of drugs when requested by a law enforcement officer, notwithstanding the presence of alcohol in the blood sample.

Policy Option 7: Require the Office of the Chief Medical Examiner (OCME) to perform a blood test on all drivers killed in motor vehicle and boating crashes and to report the results to DMV.



DUI – Policy Options 5 and 7

- Both policy options were proposed for the purpose of collecting and reporting data.
- As endorsed, both options present challenges:
 - Policy Option 5: potential testing backlogs at DFS, court delays, and significant resources for DFS.
 - \$3.4 million FY24 and \$693,000 each year thereafter
 - Policy Option 7: may jeopardize OCME accreditation and grant funding.



DUI – Policy Options 5 and 7

- Staff worked with DFS and OCME to propose an alternate solution using budget language that would still accomplish the main objective, while significantly reducing concerns and costs.
 - Requires DFS to de-identify and screen DUI blood samples for the presence of drugs within a drug class after case conclusion and report the results.
 - Requires DFS to perform drug testing on all blood samples of drivers killed in motor and commercial motor vehicle crashes as submitted by OCME.



DUI – Policy Options 5 and 7

Proposed budget language:

- Policy Option 5: budget language and funding.
 - \$239,000 in FY24
 - \$197,000 each year thereafter
- Policy Option 7: budget language only.
- These can be combined into one budget amendment or introduced separately.



DUI – Recommendation 1

Recommendation 1: Continue funding and expand training for the Virginia State Police to provide Drug Recognition Expert (DRE), Advanced Roadside Impaired Driving Enforcement (ARIDE), and drug impaired driving training (budget language and funding).

- 2 DRE schools per year (~24 officers trained)
- 20 ARIDE courses per year (~400 officers trained)
- Provide SFST training at criminal justice academies
- Requires 8 FTEs to coordinate training statewide
 - FY24 cost: ~\$1.9 million
 - FY25 cost: ~\$1.2 million



2023 Legislative Package

- Legislative items:
 - DUI Policy Option 6 (DMV report)
 - Expungement and Sealing Policy Option 1
- Budget amendment:
 - DUI Policy Options 5 and 7 (blood testing)