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HOUSE BILL NO. 823

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-392.2:1, relating to expungement of police and court records in district court.*

Patron—Surovell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-392.2:1 as follows:

§ 19.2-392.2:1 Expungement of police and court records in district court.

A. If a person is charged with the commission of a misdemeanor criminal offense and is acquitted, or the charge against him is dismissed with prejudice, including dismissal by accord and satisfaction pursuant to § 19.2-151, he may immediately, upon the acquittal or dismissal, orally request expungement of the police records and the court records relating to the charge.

B. Upon such request, if the court finds that the continued existence and possible dissemination of information relating to the arrest of the person causes or may cause circumstances which constitute a manifest injustice to the person, it shall order the expungement of the police and court records, including electronic records, relating to the charge. Otherwise, it shall deny the request. Upon the entry of such order, it shall be treated as provided in subsection C. Any denial of a request for expungement shall be without prejudice, and the person may seek expungement in circuit court pursuant to the provisions of § 19.2-392.2.

C. Upon receipt of a warrant ordering dismissal and expungement, and payment by the person of \$100 in court costs, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected.

D. If (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order of expungement contrary to law, any order entered shall be voidable upon motion and notice made within three years of the entry of such order.

E. The Supreme Court shall conform its forms to the provisions of this section.

INTRODUCED

HB823