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**HOUSE BILL NO. 1147**

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding in Chapter 23.1 of Title 19.2 a section numbered 19.2-392.5, relating to sealing of court and police records; nonviolent misdemeanor offenses.*

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Patron—Convirs-Fowler

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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 in Chapter 23.1 of Title 19.2 a section numbered 19.2-392.5 as follows:**

**§ 19.2-392.5. Sealing of court and police records; nonviolent misdemeanor offenses.**

A. For purposes of this section, "nonviolent misdemeanor offense" means any offense punished as a misdemeanor under the laws of the Commonwealth or any local ordinance and does not include any misdemeanor violation of § 16.1-253.2, an offense set forth in Chapter 4 (§ 18.2-30 et seq.) of Title 18.2, or an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minor Registry pursuant to § 9.1-901.

B. The clerk of court for the jurisdiction in which a person was convicted of a nonviolent misdemeanor offense shall seal its court records, including electronic records, related to a person's conviction for a nonviolent misdemeanor offense after 10 years have passed since the date of completion of all terms of sentencing and probation, including the satisfaction of all court costs and fines and all orders of restitution. Any conviction that is sealed pursuant to this subsection shall be considered a prior conviction for purposes of prosecution of any subsequent offense for which such prior conviction statutorily enhances punishment.

C. The clerk of court for the jurisdiction in which a person was charged with a nonviolent misdemeanor offense and such charge was terminated by nolle prosequi or was otherwise dismissed shall seal its court records, including electronic records, related to such person's charge after the expiration of the limitations period for commencing prosecution for such nonviolent misdemeanor offense. Any charge for which proceedings against the person were deferred and dismissed upon the completion of terms and conditions by such person shall be treated as a conviction and be subject to the provisions of subsection B.

D. The clerk of court who seals court records in accordance with subsection B or C shall notify in writing any law-enforcement agency that possesses records relating to the charge or conviction. Upon receipt of written notice from the clerk, the law-enforcement agency shall keep any records in its possession in a separate file, the content of which shall be confidential.

E. Court records that are sealed and police records that are kept in a confidential separate file pursuant to this section shall be available to (i) any full-time or part-time employee of the State Police, a police department, or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (ii) attorneys for the Commonwealth; and (iii) the Office of the Attorney General for all criminal justice activities permitted. Such records may be made available to any other person by order of the court for good cause shown.

INTRODUCED

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