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SENATE BILL NO. 1168

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator DeSteph
on January 24, 2019)

(Patron Prior to Substitute—Senator DeSteph)

A *BILL to amend the Code of Virginia by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205, relating to the Department of Professional and Occupational Regulation; regulatory boards; expungement of disciplinary records.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205 as follows:

§ 54.1-205. Authority of regulatory boards to expunge disciplinary records.

A. As used in this section:

"Disciplinary record" means the final disposition by a regulatory board on a complaint filed against a regulant.

"Expunge" or "expungement" means the removal of a disciplinary record by (i) permanently sealing the affected record from public access, (ii) deeming the proceedings to which the affected record refers as not having occurred, and (iii) except with respect to any subsequent application for expungement, affording the affected party the right to represent that no record exists regarding the subject matter of the affected record.

"Lesser regulatory violation" means a regulatory violation involving conduct of the regulant other than (i) moral turpitude, (ii) assault and battery, or (iii) damage to real or personal property.

"Regulant" means any person holding a license, registration, or certificate with a regulatory board within this subtitle.

"Regulatory board" means the same as that term is defined in § 54.1-300.

B. A regulatory board may expunge a disciplinary record of any lesser regulatory violation of a regulant upon written application by the regulant subject to the following:

1. The application to the board for expungement is made at least five years from the date of final disposition of the disciplinary record;

2. The disciplinary record is the only disciplinary record that the regulant has with the regulatory board;

3. The regulant is not the subject of an active investigation related to professional or occupational conduct;

4. The regulant is not in a current disciplinary status, and any fees or fines assessed have been paid in full; and

5. The regulant has not had a disciplinary record previously expunged by the same regulatory board.

C. The regulant shall be responsible for all costs associated with the expungement as established by the regulatory board.

D. Nothing in this section shall prohibit a regulatory board from using a previous discipline for any regulatory purpose or from releasing records of a previous discipline upon request from law enforcement or any other governmental body as permitted by law.