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HOUSE JOINT RESOLUTION NO. 28

Offered January 8, 2020

Prefiled December 30, 2019

Directing the Virginia State Crime Commission to study expungement of criminal records. Report.

Patron—Mullin

Referred to Committee on Rules

WHEREAS, Virginia law currently allows a person to petition requesting expungement of police records and court records only if he is charged with a crime and either acquitted, a nolle prosequi is taken, or the charge is otherwise dismissed, including dismissal by accord and satisfaction. Expungement is not available for persons who have been convicted or whose criminal case resulted in deferred dismissal following a finding of evidence sufficient to convict the defendant; and

WHEREAS, according to 2016 data from the Bureau of Justice Statistics, approximately 77 million American adults, or 1 in 3, have a criminal record; and

WHEREAS, such criminal records may have a profound effect on a person throughout his life, sometimes acting as a barrier to employment, housing, social integration, public benefits eligibility, and occupational licensing; and

WHEREAS, in recent years, there has been increased recognition of such obstacles and a search for effective policies to mitigate reentry barriers faced by people with criminal records while still providing for public safety, such as allowing expungement only for certain adult convictions; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study expungement of criminal records.

In conducting its study, the Virginia State Crime Commission shall (i) review all current Virginia laws related to expungement and confidentiality and retention of criminal records; (ii) determine the number of Virginians who have a criminal record; (iii) determine the number of individuals who are currently eligible to petition for an expungement in Virginia, the number of people who petition for an expungement in Virginia annually, and the number of those petitions that are granted; (iv) examine the effect a criminal record has on these Virginians; (v) analyze expungement laws in other states, including who is eligible to petition for an expungement and what conditions are required to be met in order to be granted an expungement; (vi) in states that allow expungement of adult convictions, determine and analyze any data about post-expungement recidivism and employment; and (vii) make recommendations regarding improvements in the laws that would reduce the effects on offenders while allowing law enforcement to maintain the safety of the citizens of the Commonwealth.

All agencies of the Commonwealth shall provide assistance to the Virginia State Crime Commission for this study, upon request.

The Virginia State Crime Commission shall complete its meetings by November 30, 2020, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2021 Regular Session of the General Assembly. The executive summary shall state whether the Virginia State Crime Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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