

2021 SPECIAL SESSION I

INTRODUCED

21102655D

HOUSE BILL NO. 2113

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia and to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.16, relating to automatic expungement of criminal records.

Patrons—Herring, Coyner, Adams, D.M., Aird, Ayala, Bagby, Bourne, Carr, Carter, Cole, J.G., Guzman, Hayes, Helmer, Hope, Jenkins, Keam, Kory, Levine, Lopez, McQuinn, Mundon King, Plum, Price, Rasoul, Reid, Samirah, Scott, Simon, Simonds, Subramanyam, Tran and Williams Graves

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-340, 19.2-389.3, and 19.2-390 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.16, as follows:

§ 9.1-101. (Effective until March 1, 2021) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Automatic expungement" means to (i) restrict dissemination of criminal history record information contained in the Central Criminal Records Exchange to the purposes set forth in subsection C of § 19.2-392.12 and (ii) prohibit dissemination of court records, unless such dissemination is authorized by a court order for one of the purposes set forth in subsection C of § 19.2-392.12.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

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57 "Criminal justice agency" includes the Department of Criminal Justice Services.

58 "Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

59 "Criminal justice agency" includes the Virginia State Crime Commission.

60 "Criminal justice information system" means a system including the equipment, facilities, procedures,  
61 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of  
62 criminal history record information. The operations of the system may be performed manually or by  
63 using electronic computers or other automated data processing equipment.

64 "Department" means the Department of Criminal Justice Services.

65 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic  
66 means. The term shall not include access to the information by officers or employees of a criminal  
67 justice agency maintaining the information who have both a need and right to know the information.

68 "Law-enforcement officer" means any full-time or part-time employee of a police department or  
69 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision  
70 thereof, or any full-time or part-time employee of a private police department, and who is responsible  
71 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of  
72 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control  
73 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia  
74 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement  
75 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the  
76 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and  
77 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement  
78 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection  
79 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under  
80 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit  
81 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal  
82 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations  
83 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the  
84 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer  
85 employed by a private police department. Part-time employees are those compensated officers who are  
86 not full-time employees as defined by the employing police department, sheriff's office, or private police  
87 department.

88 "Private police department" means any police department, other than a department that employs  
89 police agents under the provisions of § 56-353, that employs private police officers operated by an entity  
90 authorized by statute or an act of assembly to establish a private police department or such entity's  
91 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized  
92 to operate a private police department or represent that it is a private police department unless such  
93 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of  
94 an entity that has been authorized pursuant to this section, provided it complies with the requirements  
95 set forth herein. The authority of a private police department shall be limited to real property owned,  
96 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous  
97 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the  
98 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The  
99 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum  
100 of understanding with the private police department that addresses the duties and responsibilities of the  
101 private police department and the chief law-enforcement officer in the conduct of criminal investigations.  
102 Private police departments and private police officers shall be subject to and comply with the  
103 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police  
104 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,  
105 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable  
106 to private police departments. Any person employed as a private police officer pursuant to this section  
107 shall meet all requirements, including the minimum compulsory training requirements, for  
108 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits  
109 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a  
110 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of  
111 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an  
112 employee of the Commonwealth or any locality. An authorized private police department may use the  
113 word "police" to describe its sworn officers and may join a regional criminal justice academy created  
114 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in  
115 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and  
116 whose status as a private police department was recognized by the Department at that time is hereby  
117 validated and may continue to operate as a private police department as may such entity's successor in  
118 interest, provided it complies with the requirements set forth herein.

119 "School resource officer" means a certified law-enforcement officer hired by the local  
120 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
121 and secondary schools.

122 "School security officer" means an individual who is employed by the local school board or a private  
123 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
124 investigating violations of the policies of the school board or the private or religious school, and  
125 detaining students violating the law or the policies of the school board or the private or religious school  
126 on school property, school buses, or at school-sponsored events and who is responsible solely for  
127 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned  
128 school.

129 "Unapplied criminal history record information" means information pertaining to criminal offenses  
130 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history  
131 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
132 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
133 within the content of the submitted information.

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161 within the context of its criminal justice activities, employs special conservators of the peace appointed  
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164 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)  
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246 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
247 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
248 within the content of the submitted information.

249 **§ 17.1-293.1. Online case information system.**

250 A. The Executive Secretary shall make available a publicly viewable online case information system  
251 of certain nonconfidential information entered into the case management system for criminal cases in the  
252 circuit courts participating in the Executive Secretary's case management system and in the general  
253 district courts. Such system shall be searchable by defendant name across all participating courts, and  
254 search results shall be viewable free of charge.

255 B. Upon entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9,  
256 or 19.2-392.11, the Executive Secretary shall not make any offense that was ordered to be automatically  
257 expunged available for online public viewing in an appellate court, circuit court, or district court case  
258 management system maintained by the Executive Secretary.

259 C. Upon entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9,  
260 or 19.2-392.11, any circuit court clerk who maintains a viewable online case management or case  
261 information system shall not make any offense that was ordered to be automatically expunged available  
262 for online public viewing.

263 **§ 17.1-323. Clerk to deliver opinions to Reporter.**

264 A. In those cases ~~which~~ that the Reporter is directed to report, copies of the reasons stated in writing,  
265 under ~~Section 6~~ of Article VI, *Section 6* of the Constitution of Virginia, shall be delivered by the clerk  
266 of the Court to the Reporter.

267 B. If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,  
268 19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Supreme Court  
269 exists in relation to that offense, the clerk shall redact the name of the person charged with the offense  
270 that was ordered to be automatically expunged from any decision or order of the Supreme Court that  
271 references such offense, unless such decision or order also includes offenses that were not ordered to be  
272 automatically expunged.

273 **§ 17.1-413. Opinions; reporting, printing and electronic publication.**

274 A. The Court of Appeals shall state in writing the reasons for its decision (i) rejecting a petition for  
275 appeal or (ii) deciding a case after hearing. Subject to rules promulgated under § 17.1-403 the Court in  
276 its discretion may render its decision by order or memorandum opinion. All orders and opinions of the  
277 Court of Appeals shall be preserved with the record of the case. Opinions designated by the Court of  
278 Appeals as having precedential value or as otherwise having significance for the law or legal system  
279 shall be expeditiously reported in separate Court of Appeals Reports in the same manner as the  
280 decisions and opinions of the Supreme Court. The clerk of the Court of Appeals shall retain in the  
281 clerk's office a list and brief summary of the case for all unpublished decisions and opinions of the  
282 Court of Appeals. The list of cases and summary shall be made available to any person upon request.

283 B. If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,  
284 19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Court of Appeals  
285 exists in relation to that offense, the clerk of the Court of Appeals shall redact the name of the person  
286 charged with the offense that was ordered to be automatically expunged from any decision or order of  
287 the Court of Appeals that references such offense, unless such decision or order also includes offenses  
288 that were not ordered to be automatically expunged.

289 C. The Executive Secretary of the Supreme Court shall contract for the printing of the reports of the  
290 Supreme Court and the Court of Appeals and for the advance sheets of each court. He shall select a  
291 printer for the reports and prescribe such contract terms as will ensure issuance of the reports as soon as  
292 practicable after a sufficient number of opinions are filed. He shall make such contracts after  
293 consultation with the Department of General Services and shall distribute these reports in accordance  
294 with the applicable provisions of law. He shall also provide for the electronic publication on the Internet  
295 of the opinions of the Supreme Court and Court of Appeals subject to conditions and restrictions  
296 established by each court regarding the electronic publication of its opinions.

297 D. Upon redaction of any published or unpublished decision or order of the Supreme Court or the  
298 Court of Appeals pursuant to subsection B or to subsection B of § 17.1-323, the Executive Secretary of  
299 the Supreme Court shall remove the decision or order published on Virginia's Judicial System website  
300 and replace such decision or order with the redacted version of the decision or order.

301 **§ 17.1-502. Administrator of circuit court system.**

302 A. The Executive Secretary of the Supreme Court shall be the administrator of the circuit court

303 system, which includes the operation and maintenance of a case management system and financial  
304 management system and related technology improvements.

305 B. Any circuit court clerk may establish and maintain his own case management system, financial  
306 management system, or other independent technology using automation or technology improvements  
307 provided by a private vendor or the locality. Any data from the clerk's independent system may be  
308 provided directly from such clerk to designated state agencies. The data from the clerk's independent  
309 system may also be provided to designated state agencies through an interface with the technology  
310 systems operated by the Executive Secretary.

311 *B1. If the data from a case management system established under subsection B is not provided to the*  
312 *Executive Secretary of the Supreme Court through an interface, such data shall be provided to the*  
313 *Department of State Police through an interface for purposes of complying with §§ 19.2-392.7,*  
314 *19.2-392.10, and 19.2-392.11. The parameters of such interface shall be determined by the Department*  
315 *of State Police. The costs of designing, implementing, and maintaining such interface shall be the*  
316 *responsibility of the circuit court clerk.*

317 C. The Executive Secretary shall provide an electronic interface with his case management system,  
318 financial management system, or other technology improvements upon written request of any circuit  
319 court clerk. The circuit court clerk and the clerk's designated application service provider shall comply  
320 with the security and data standards established by the Executive Secretary for any such electronic  
321 interface. The Executive Secretary shall establish security and data standards for such electronic  
322 interfaces on or before June 30, 2013, and such standards shall be consistent with the policies, standards,  
323 and guidelines established pursuant to § 2.2-2009.

324 D. The costs of designing, implementing, and maintaining any such interface with the systems of the  
325 Executive Secretary shall be the responsibility of the circuit court clerk. Prior to incurring any costs, the  
326 Office of the Executive Secretary shall provide the circuit court clerk a written explanation of the  
327 options for providing such interfaces and provide the clerk with a proposal for such costs and enter into  
328 a written contract with the clerk to provide such services.

329 E. The Executive Secretary shall assist the chief judges in the performance of their administrative  
330 duties. He may employ such staff and other assistants, from state funds appropriated to him for the  
331 purpose, as may be necessary to carry out his duties, and may secure such office space as may be  
332 requisite, to be located in an appropriate place to be selected by the Executive Secretary.

333 **§ 19.2-72. When it may issue; what to recite and require.**

334 On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall  
335 examine on oath the complainant and any other witnesses, or when such officer shall suspect that an  
336 offense punishable otherwise than by a fine has been committed he may, without formal complaint,  
337 issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required  
338 if the complainant is not a law-enforcement officer; however, if no arrest warrant is issued in response  
339 to a written complaint made by such complainant, the written complaint shall be returned to the  
340 complainant. If upon such examination such officer finds that there is probable cause to believe the  
341 accused has committed an offense, such officer shall issue a warrant for his arrest, except that no  
342 magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person  
343 other than a law-enforcement officer or an animal control officer without prior authorization by the  
344 attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged  
345 offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or,  
346 if his name is unknown, set forth a description by which he can be identified with reasonable certainty,  
347 (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested  
348 and brought before a court of appropriate jurisdiction in the county, city or town in which the offense  
349 was allegedly committed, and (v) be signed by the issuing officer. *If a warrant is issued for an offense*  
350 *in violation of any county, city, or town ordinance that is similar to any provision of this Code, the*  
351 *warrant shall reference the offense using both the citation corresponding to the county, city, or town*  
352 *ordinance and the specific provision of this Code.* The warrant shall require the officer to whom it is  
353 directed to summon such witnesses as shall be therein named to appear and give evidence on the  
354 examination. But in a city or town having a police force, the warrant shall be directed "To any  
355 policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman,  
356 sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his deputy may  
357 execute an arrest warrant throughout the county in which he serves and in any city or town surrounded  
358 thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act  
359 committed during the execution of such warrant. A jail officer as defined in § 53.1-1 employed at a  
360 regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail. The  
361 venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

362 **§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance**  
363 **of summons by special conservators of the peace.**

364 A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any

365 violation committed in such officer's presence which offense is a violation of any county, city or town  
 366 ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other  
 367 misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for  
 368 offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a  
 369 summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the  
 370 arresting officer shall take the name and address of such person and issue a summons or otherwise  
 371 notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the  
 372 giving by such person of his written promise to appear at such time and place, the officer shall forthwith  
 373 release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful  
 374 act, the officer may proceed according to the provisions of § 19.2-82.

375 Anything in this section to the contrary notwithstanding, if any person is believed by the arresting  
 376 officer to be likely to disregard a summons issued under the provisions of this subsection, or if any  
 377 person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any  
 378 other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the  
 379 provisions of § 19.2-82.

380 2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of  
 381 any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4  
 382 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise  
 383 provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting  
 384 officer shall take the name and address of such person and issue a summons or otherwise notify him in  
 385 writing to appear at a time and place to be specified in such summons or notice. Upon the giving of  
 386 such person of his written promise to appear at such time and place, the officer shall forthwith release  
 387 him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the  
 388 officer may proceed according to the provisions of § 19.2-82.

389 3. Unless otherwise authorized by law, any person so summoned shall not be held in custody after  
 390 the issuance of such summons for the purpose of complying with the requirements of Chapter 23  
 391 (§ 19.2-387 et seq.). Reports to the Central Criminal Records Exchange concerning such persons shall be  
 392 made pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.

393 Any person refusing to give such written promise to appear under the provisions of this section shall  
 394 be taken immediately by the arresting or other police officer before a magistrate or other issuing  
 395 authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

396 Any person who willfully violates his written promise to appear, given in accordance with this  
 397 section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of,  
 398 and in addition to, the charge upon which he was originally arrested.

399 Any person charged with committing any violation of § 18.2-407 may be arrested and immediately  
 400 brought before a magistrate who shall proceed as provided in § 19.2-82.

401 B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses  
 402 pursuant to this section, if such officers are in uniform or displaying a badge of office. On application,  
 403 the chief law-enforcement officer of the county or city shall supply each officer with a supply of  
 404 summons forms, for which such officer shall account pursuant to regulation of such chief  
 405 law-enforcement officer.

406 C. The summons used by a law-enforcement officer pursuant to this section shall be in form the  
 407 same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. *If*  
 408 *the summons is issued for an offense in violation of any county, city, or town ordinance that is similar*  
 409 *to any provision of this Code, the summons shall reference the offense using both the citation*  
 410 *corresponding to the county, city, or town ordinance and the specific provision of this Code.*

411 **§ 19.2-310.7. Expungement when DNA taken for a conviction.**

412 A. A person whose DNA profile has been included in the data bank pursuant to § 19.2-310.2 may  
 413 request expungement on the grounds that the conviction on which the authority for including his DNA  
 414 profile was based has been reversed and the case dismissed. Provided that the person's DNA profile is  
 415 not otherwise required to be included in the data bank pursuant to § 9.1-903, 16.1-299.1, 19.2-310.2, or  
 416 19.2-310.2:1, the Department of Forensic Science shall purge all records and identifiable information in  
 417 the data bank pertaining to the person and destroy all samples from the person upon receipt of (i) a  
 418 written request for expungement pursuant to this section and (ii) a certified copy of the court order  
 419 reversing and dismissing the conviction.

420 B. *Entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or*  
 421 *19.2-392.11 shall not serve as grounds for expungement of a person's DNA profile or any records in the*  
 422 *data bank relating to that DNA profile.*

423 **§ 19.2-340. Fines; how recovered; in what name.**

424 When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would  
 425 be inconsistent with the manifest intention of the General Assembly, it shall be paid to the

426 Commonwealth if prescribed by a statute and recoverable by presentment, indictment, information, or  
 427 warrant and paid to the locality if prescribed by an ordinance and recoverable by warrant. *Whenever any*  
 428 *warrant or summons is issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any*  
 429 *county, city, or town ordinance that is similar to any provision of this Code, and such warrant or*  
 430 *summons references the offense using both the citation corresponding to the county, city, or town*  
 431 *ordinance and the specific provision of this Code, any fine prescribed by the county, city, or town*  
 432 *ordinance shall be paid to the locality.* Fines imposed and costs taxed in a criminal or traffic  
 433 prosecution, including a prosecution for a violation of an ordinance adopted pursuant to § 46.2-1220, for  
 434 committing an offense shall constitute a judgment and, if not paid at the time they are imposed,  
 435 execution may issue thereon in the same manner as upon any other monetary judgment, subject to the  
 436 period of limitations provided by § 19.2-341.

437 **§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record**  
 438 **information; prohibited practices by employers, educational institutions, and state and local**  
 439 **governments; penalty.**

440 A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of  
 441 § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed  
 442 pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for  
 443 public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
 444 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in  
 445 the preparation of a pretrial investigation report prepared by a local pretrial services agency established  
 446 pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9; a pre-sentence or post-sentence investigation  
 447 report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing  
 448 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based  
 449 probation services agencies established pursuant to the Comprehensive Community Corrections Act for  
 450 Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible  
 451 offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint  
 452 comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
 453 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
 454 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing  
 455 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time  
 456 employee of the State Police, a police department, or sheriff's office that is a part of or administered by  
 457 the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and  
 458 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for  
 459 purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia  
 460 Criminal Sentencing Commission for research purposes; ~~(viii)~~ (iv) to any full-time or part-time employee  
 461 of the State Police or a police department or sheriff's office that is a part of or administered by the  
 462 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time  
 463 or part-time employment with, *or to be a volunteer with*, the State Police or a police department or  
 464 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
 465 thereof; ~~(ix)~~ (v) to the State Health Commissioner or his designee for the purpose of screening any  
 466 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
 467 provided in § 32.1-111.5; ~~(x)~~ (vi) to any full-time or part-time employee of the Department of Forensic  
 468 Science for the purpose of screening any person for full-time or part-time employment with the  
 469 Department of Forensic Science; ~~(xi)~~ (vii) to the chief law-enforcement officer of a locality, or his  
 470 designee who shall be an individual employed as a public safety official of the locality, that has adopted  
 471 an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person  
 472 who applies to be a volunteer with or an employee of an emergency medical services agency as  
 473 provided in § 32.1-111.5; ~~and (xii)~~ (viii) to any full-time or part-time employee of the Department of  
 474 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49  
 475 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety  
 476 Administration; (ix) to any employer or prospective employer or its designee where federal law requires  
 477 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective  
 478 employer or its designee where the position that a person is applying for, or where access to the  
 479 premises in or upon which any part of the duties of such position is performed or is to be performed, is  
 480 subject to any requirement imposed in the interest of the national security of the United States under  
 481 any security program in effect pursuant to or administered under any contract with, or statute or  
 482 regulation of, the United States or any Executive Order of the President; (xi) to any person authorized  
 483 to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for  
 484 purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA  
 485 Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish  
 486 decisions of the Supreme Court and Court of Appeals, subject to the provisions of subsection B of  
 487 § 17.1-323 and subsections B and D of § 17.1-413; (xiv) to any full-time or part-time employee of a

488 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the  
 489 House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of  
 490 screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court  
 491 or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee  
 492 where this Code requires the employer to inquire about prior criminal charges or convictions; (xvi) to  
 493 the person arrested, charged, or convicted of the offense that was automatically expunged; (xvii) to any  
 494 business screening service for purposes of complying with subsection C of § 19.2-392.15; and (xviii) to  
 495 any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the  
 496 accused, in order to comply with any constitutional and statutory duties to provide exculpatory,  
 497 mitigating, and impeachment evidence to an accused.

498 B. ~~An employer or~~ Except as provided in subsection C, agencies, officials, and employees of state  
 499 and local governments, private employers that are not subject to federal regulations in the hiring  
 500 process, and educational ~~institution~~ institutions shall not, in any application, interview, or otherwise,  
 501 require an applicant for employment or admission to disclose information concerning any arrest, criminal  
 502 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction  
 503 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any  
 504 question concerning any arrest, criminal charge, or conviction, include a reference to or information  
 505 concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal  
 506 charge, or conviction is not open for public inspection pursuant to subsection A.

507 C. The provisions of subsection B shall not apply if:

508 1. The person is applying for full-time employment or part-time employment with, or to be a  
 509 volunteer with, the State Police or a police department or sheriff's office that is a part of or  
 510 administered by the Commonwealth or any political subdivision thereof;

511 2. This Code requires the employer to make such an inquiry;

512 3. Federal law requires the employer to make such an inquiry; or

513 4. The position, or access to the premises in or upon which any part of the duties of such position is  
 514 performed or is to be performed, is subject to any requirement imposed in the interest of the national  
 515 security of the United States under any security program in effect pursuant to or administered under any  
 516 contract with, or statute or regulation of, the United States or any Executive Order of the President.

517 D. Agencies, officials, and employees of the state and local governments shall not, in any  
 518 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
 519 governmental service to disclose information concerning any arrest, criminal charge, or conviction  
 520 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
 521 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
 522 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
 523 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
 524 not open for public inspection pursuant to subsection A. Such an application may not be denied solely  
 525 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or  
 526 conviction.

527 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,  
 528 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal  
 529 charge, or conviction against him when the record relating to such arrest, criminal charge, or  
 530 conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer  
 531 to any question concerning any arrest, criminal charge, or conviction, include a reference to or  
 532 information concerning arrests, criminal charges, or convictions when the record relating to such arrest,  
 533 criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an  
 534 application may not be denied solely because of the applicant's refusal to disclose information  
 535 concerning any such arrest, criminal charge, or conviction.

536 ~~D. F.~~ A person who willfully violates subsection B ~~or C~~, D, or E is guilty of a Class 1 misdemeanor  
 537 for each violation.

538 **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace,**  
 539 **clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material**  
 540 **submitted by other agencies.**

541 A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police  
 542 officials of cities and towns, and any other local law-enforcement officer or conservator of the peace  
 543 having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange,  
 544 on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or  
 545 service of process upon, any person on charges resulting from an indictment, presentment or  
 546 information, the arrest on capias or warrant for failure to appear, and the service of a warrant for  
 547 another jurisdiction, for each charge when any person is arrested on any of the following charges:

548 a. Treason;

549 b. Any felony;  
550 c. Any offense punishable as a misdemeanor under Title 54.1;  
551 d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar  
552 ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or  
553 e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
554 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632,  
555 63.2-1509, or 63.2-1727.  
556 e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
557 22.1-289.041, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1,  
558 60.2-632, or 63.2-1509.

559 The reports shall contain such information as is required by the Exchange and shall be accompanied  
560 by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding  
561 photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a  
562 law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the  
563 Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local  
564 law-enforcement agency from maintaining its own separate photographic database. Fingerprints and  
565 photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be  
566 taken at the facility where the magistrate is located, including a regional jail, even if the accused is not  
567 committed to jail.

568 *Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal*  
569 *Records Exchange for those offenses enumerated in this subsection. Only reports received for those*  
570 *offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.*

571 2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or  
572 § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if  
573 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
574 (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii)  
575 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal,  
576 the court shall remand the individual to the custody of the office of the chief law-enforcement officer of  
577 the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be  
578 the arresting officer, to ensure that such report is completed for each charge after a determination of  
579 guilt or acquittal by reason of insanity. The court shall require the officer to complete the report  
580 immediately following the person's conviction or acquittal, and the individual shall be discharged from  
581 custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him  
582 committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

583 3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a  
584 suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a  
585 report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding  
586 such person in violation of the terms or conditions of a suspended sentence or probation for such felony  
587 offense, the court shall order that the fingerprints and photograph of such person be taken by a  
588 law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

589 4. For any person served with a show cause for any allegation of a violation of the terms or  
590 conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306,  
591 or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such  
592 person is found to be in violation of the terms or conditions of a suspended sentence or probation for  
593 such felony offense. Upon finding such person in violation of the terms or conditions of a suspended  
594 sentence or probation for such felony offense, the court shall order that the fingerprints and photograph  
595 of such person be taken by a law-enforcement officer for each such offense and submitted to the Central  
596 Criminal Records Exchange.

597 5. If the accused is in custody when an indictment or presentment is found or made, or information  
598 is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such  
599 at the time of first appearance for each indictment, presentment, or information for which a report is  
600 required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and  
601 photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that  
602 has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking  
603 the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each  
604 offense.

605 B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a  
606 charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the  
607 law-enforcement agency which received the warrant shall enter the person's name and other appropriate  
608 information required by the Department of State Police into the "information systems" known as the  
609 Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant  
610 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC),

611 maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of  
 612 birth, social security number and such other known information which the State Police or Federal  
 613 Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the  
 614 warrant or capias may transfer information electronically into VCIN. When the information is  
 615 electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias  
 616 to the local police department or sheriff's office. When criminal process has been ordered destroyed  
 617 pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of  
 618 any information relating to the destroyed criminal process from the VCIN and NCIC.

619 B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant  
 620 to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his  
 621 post-release supervision or probation, the law-enforcement agency that received the written statement  
 622 shall enter, or cause to be entered, the person's name and other appropriate information required by the  
 623 Department of State Police into the "information systems" known as the Virginia Criminal Information  
 624 Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.)  
 625 of Title 52.

626 C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or  
 627 § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central  
 628 Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251,  
 629 or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency  
 630 or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or  
 631 failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection  
 632 A, including any action that may have resulted from an indictment, presentment or information, or any  
 633 finding that the person is in violation of the terms or conditions of a suspended sentence or probation  
 634 for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an  
 635 adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A  
 636 and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic  
 637 report by the clerk of each circuit court and district court to the Central Criminal Records Exchange  
 638 may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if  
 639 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
 640 (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c)  
 641 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court  
 642 shall make an electronic report to the Central Criminal Records Exchange of any finding that a person  
 643 charged on a summons is in violation of the terms or conditions of a suspended sentence or probation  
 644 for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection~~  
 645 ~~A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making~~  
 646 ~~the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any  
 647 person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether  
 648 sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902,  
 649 the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against  
 650 Minors Registry. The report to the Registry shall include the name of the person convicted and all  
 651 aliases that he is known to have used, the date and locality of the conviction for which registration is  
 652 required, his date of birth, social security number, and last known address, and specific reference to the  
 653 offense for which he was convicted. No report of conviction or adjudication in a district court shall be  
 654 filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event  
 655 that the records in the office of any clerk show that any conviction or adjudication has been nullified in  
 656 any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry.  
 657 In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court,  
 658 shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the  
 659 case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or  
 660 Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition  
 661 previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall  
 662 report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

663 D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange  
 664 may receive, classify, and file any other fingerprints, photographs, and records of ~~arrest or~~ confinement  
 665 submitted to it by any ~~law-enforcement agency or~~ any correctional institution or the Department of  
 666 Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records  
 667 received by the Central Criminal Records Exchange from any correctional institution or the Department  
 668 of Corrections may be classified and filed as criminal history record information.

669 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining  
 670 correctional status information, as required by the regulations of the Department of Criminal Justice  
 671 Services, with respect to individuals about whom reports have been made under the provisions of this

chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

#### CHAPTER 23.2.

#### AUTOMATIC EXPUNGEMENT OF CRIMINAL RECORDS.

##### **§ 19.2-392.5. Automatic expungement defined; effect of automatic expungement.**

A. As used in this chapter, unless the context requires a different meaning, "automatic expungement" means to (i) restrict dissemination of criminal history record information contained in the Central Criminal Records Exchange to the purposes set forth in subsection C of § 19.2-392.12 and (ii) prohibit dissemination of court records, unless such dissemination is authorized by a court order for one of the purposes set forth in subsection C of § 19.2-392.12.

B. Records relating to an arrest, criminal charge, or conviction that has been automatically expunged may only be disseminated for purposes set forth in subsection C of § 19.2-392.12. The court and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, criminal charge, or conviction that has been automatically expunged, unless such information is permitted to be disclosed pursuant to subsection C of § 19.2-392.12. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of automatically expunged court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to July 1, 2025.

C. Except as provided in subsection D, upon entry of an order for automatic expungement, the person who was arrested, criminally charged, or convicted of the offense that was ordered to be automatically expunged may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, criminal charge, or conviction occurred. No person as to whom an order for automatic expungement has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, criminal charge, or conviction that has been automatically expunged, unless such denial or failure to disclose is in response to a query from an employer under subsection D.

D. The person who was the subject of the order of automatic expungement may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be automatically expunged if:

1. The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;

2. This Code requires the employer to make such an inquiry;

3. Federal law requires the employer to make such an inquiry; or

4. The position, or access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any

734 contract with, or statute or regulation of, the United States or any Executive Order of the President.

735 E. An order to automatically expunge an arrest, criminal charge, or conviction entered pursuant to  
 736 § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11 shall not relieve the person who was arrested,  
 737 criminally charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or  
 738 restitution in relation to the offense that was ordered to be automatically expunged.

739 F. The provisions of this chapter shall only apply to adults who were arrested, charged, or convicted  
 740 of a criminal offense and to juveniles who were tried in circuit court pursuant to § 16.1-269.1.

741 **§ 19.2-392.6. Automatic expungement of offenses resulting in a deferred and dismissed disposition**  
 742 **or conviction.**

743 A. If a person was charged with an offense in violation of § 4.1-305, 18.2-250, or 18.2-250.1, and  
 744 such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense shall be  
 745 ordered to be automatically expunged in the manner set forth in § 19.2-392.7, subject to the provisions  
 746 of subsections C and D.

747 B. If a person was convicted of a violation of any of the following sections, such conviction shall be  
 748 ordered to be automatically expunged in the manner set forth in § 19.2-392.7, subject to the provisions  
 749 of subsections C and D: § 4.1-305, 18.2-57.01, 18.2-60, 18.2-86, 18.2-94, 18.2-96, 18.2-104, 18.2-119,  
 750 18.2-120, 18.2-121.3, 18.2-126, 18.2-127, 18.2-132.1, 18.2-134, 18.2-136, 18.2-137, 18.2-138,  
 751 18.2-144.2, 18.2-145.1, 18.2-146, 18.2-147, 18.2-147.2, 18.2-151, 18.2-151.1, 18.2-152.3:1, 18.2-152.7:1,  
 752 18.2-152.7:2, 18.2-152.15, 18.2-152.17, 18.2-156, 18.2-159, 18.2-160.1, 18.2-162.1, 18.2-163, 18.2-164,  
 753 18.2-165.1, 18.2-165.2, 18.2-250, 18.2-250.1, 18.2-251, 18.2-251.4, 18.2-255.1, 18.2-265.5, 18.2-265.7,  
 754 18.2-265.18, 18.2-265.21, 18.2-313.1, 18.2-313.2, 18.2-323.01, 18.2-323.02, 18.2-324, 18.2-326,  
 755 18.2-328, 18.2-329, 18.2-330, 18.2-331, 18.2-340, 18.2-371.3, 18.2-403.4, 18.2-404, 18.2-409, 18.2-410,  
 756 18.2-414.1, 18.2-415, 18.2-427, 18.2-428, 18.2-431.1, 18.2-462, 18.2-468, 18.2-471.1, 18.2-477.2,  
 757 18.2-487, 18.2-488, 18.2-499, 18.2-505, or 18.2-511.1.

758 C. Subject to the provisions of subsection D, any offense listed under subsection A and any  
 759 conviction listed under subsection B shall be ordered to be automatically expunged if:

760 1. For an offense that was deferred and dismissed as provided in subsection A, eight years have  
 761 passed since the date of the dismissal and the person charged with the offense has not been convicted of  
 762 violating any law of the Commonwealth that requires a report to the Central Criminal Records  
 763 Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United  
 764 States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

765 2. For a misdemeanor conviction of an offense listed in subsection B, eight years have passed since  
 766 the date of the conviction and the person convicted of the offense has not been convicted of violating  
 767 any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under  
 768 subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any  
 769 territory thereof, excluding traffic infractions under Title 46.2, during that time period.

770 3. For a felony conviction of an offense listed in subsection B, eight years have passed since the date  
 771 of the conviction or release from incarceration, whichever date occurred later, and the person convicted  
 772 of the offense has not been convicted of violating any law of the Commonwealth that requires a report  
 773 to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the  
 774 District of Columbia, or the United States or any territory thereof, excluding traffic infractions under  
 775 Title 46.2, during that time period.

776 D. No offense listed under subsection A shall be automatically expunged if, on the date of the  
 777 deferral or dismissal, the person was convicted of another offense that is not eligible for automatic  
 778 expungement under subsection A or B. No conviction listed under subsection B shall be automatically  
 779 expunged if, on the date of the conviction, the person was convicted of another offense that is not  
 780 eligible for automatic expungement under subsection A or B.

781 **§ 19.2-392.7. Process for automatic expungement of offenses resulting in a conviction or deferred**  
 782 **disposition.**

783 A. On a monthly basis, the Department of State Police shall determine which offenses in the Central  
 784 Criminal Records Exchange meet the criteria for automatic expungement set forth in § 19.2-392.6.

785 B. After reviewing the offenses provided under subsection A, the Department of State Police shall  
 786 provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in  
 787 § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who  
 788 maintains a case management system that interfaces with the Department of State Police under  
 789 subsection B1 of § 17.1-502.

790 C. Upon receipt of the electronic list from the Department of State Police provided under subsection  
 791 B, on at least a monthly basis the Executive Secretary of the Supreme Court shall provide an electronic  
 792 list of all offenses that meet the criteria for automatic expungement set forth in § 19.2-392.6 to the clerk  
 793 of each circuit court in the jurisdiction where the case was finalized, if such circuit court clerk  
 794 participates in the case management system maintained by the Executive Secretary.

795 D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis  
796 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
797 enter such order directing that the offenses that meet the criteria for automatic expungement set forth in  
798 § 19.2-392.6 be automatically expunged under the process described in § 19.2-392.12. Such order shall  
799 contain the names of the persons charged with or convicted of such offenses.

800 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
801 subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such order,  
802 the Department of State Police shall proceed as set forth in § 19.2-392.12.

803 F. If an offense is automatically expunged contrary to law, the automatic expungement of that  
804 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
805 order to automatically expunge such offense.

806 **§ 19.2-392.8. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
807 **dismissal.**

808 A. If a person is charged with the commission of a criminal offense, excluding traffic infractions  
809 under Title 46.2, and (i) the person is acquitted, (ii) a nolle prosequi is entered, or (iii) the charge is  
810 otherwise dismissed, excluding any charge that is deferred and dismissed after a finding of facts  
811 sufficient to justify a finding of guilt, the court disposing of the matter shall, at the time the acquittal,  
812 nolle prosequi, or dismissal is entered, order that the charge be automatically expunged under the  
813 process described in § 19.2-392.12, unless the attorney for the Commonwealth or any other person  
814 advises the court at the time the acquittal, nolle prosequi, or dismissal is entered that:

815 1. The charge is ancillary to another charge that resulted in a conviction or a finding of facts  
816 sufficient to justify a finding of guilt;

817 2. A nolle prosequi is entered or the charge is dismissed as part of a plea agreement;

818 3. Another charge arising out of the same facts and circumstances is pending against the person;

819 4. The Commonwealth intends to reinstitute the charge or any other charge arising out of the same  
820 facts and circumstances within three months;

821 5. Good cause exists, as established by the Commonwealth by a preponderance of the evidence, that  
822 such charge should not be automatically expunged; or

823 6. The person charged with the offense objects to the automatic expungement.

824 B. If the court enters an order pursuant to subsection A, the court shall advise the person charged  
825 that the offense has been ordered to be automatically expunged.

826 C. If an offense is automatically expunged contrary to law, the automatic expungement of that  
827 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
828 order to automatically expunge such offense.

829 **§ 19.2-392.9. Automatic expungement for mistaken identity or unauthorized use of identifying**  
830 **information.**

831 A. If (i) a person is charged or arrested as a result of mistaken identity or (ii) a person's name or  
832 other identification is used without his consent or authorization by another person who is charged or  
833 arrested using such name or identification, and a nolle prosequi is entered or the charge is otherwise  
834 dismissed, the attorney for the Commonwealth or any other person requesting the nolle prosequi or  
835 dismissal shall notify the court of the mistaken identity or unauthorized use of identifying information at  
836 the time such request is made. Upon such notification, the court disposing of the matter shall, at the  
837 time the nolle prosequi or dismissal is entered, order that the charge be automatically expunged under  
838 the process described in § 19.2-392.12, unless the person charged or arrested as a result of the  
839 mistaken identity or unauthorized use of identifying information objects to such automatic expungement.

840 B. If the court enters an order pursuant to subsection A, the court shall advise the person charged  
841 that the offense has been ordered to be automatically expunged.

842 C. If an offense is automatically expunged contrary to law, the automatic expungement of that  
843 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
844 order to automatically expunge such offense.

845 **§ 19.2-392.10. Process for automatic expungement of offenses resulting in acquittal, nolle**  
846 **prosequi, or dismissal.**

847 A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court  
848 clerk who maintains a case management system that interfaces with the Department of State Police  
849 under subsection B1 of § 17.1-502 shall provide an electronic list of all offenses in such case  
850 management system to the Department of State Police that were ordered to be automatically expunged  
851 pursuant to §§ 19.2-392.8 and 19.2-392.9.

852 B. Upon receipt of the electronic lists under subsection A, the Department of State Police shall  
853 proceed as set forth in § 19.2-392.12.

854 **§ 19.2-392.11. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
855 **dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history**  
856 **record.**

857 A. On at least an annual basis, the Department of State Police shall review the Central Criminal  
 858 Records Exchange and identify all persons with finalized case dispositions that resulted in (i) an  
 859 acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and  
 860 dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record  
 861 of such person contains no convictions for any criminal offense, excluding traffic infractions under Title  
 862 46.2. For purposes of this subsection, any offense on the person's criminal history record that has  
 863 previously been ordered to be automatically expunged shall not be deemed a conviction.

864 B. Upon identification of the finalized case dispositions under subsection A, the Department of State  
 865 Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court  
 866 and to any circuit court clerk who maintains a case management system that interfaces with the  
 867 Department of State Police under subsection B1 of § 17.1-502.

868 C. Upon receipt of the electronic list from the Department of State Police provided under subsection  
 869 B, on at least an annual basis the Executive Secretary of the Supreme Court shall provide an electronic  
 870 list of such offenses to the clerk of each circuit court in the jurisdiction where the case was finalized, if  
 871 such circuit court clerk participates in the case management system maintained by the Executive  
 872 Secretary.

873 D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis  
 874 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
 875 enter such order directing that the offenses be automatically expunged under the process described in  
 876 § 19.2-392.12. Such order shall contain the names of the persons charged with such offenses.

877 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
 878 subsection D to the Department of State Police on at least an annual basis. Upon receipt of such order,  
 879 the Department of State Police shall proceed as set forth in § 19.2-392.12.

880 F. If an offense is automatically expunged contrary to law, the automatic expungement of that  
 881 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
 882 order to automatically expunge such offense.

883 G. If an offense is automatically expunged pursuant to the procedure set forth in this section and  
 884 such offense was not ordered to be automatically expunged at the time of acquittal, nolle prosequi, or  
 885 dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic expungement of such  
 886 offense shall be voidable upon motion and notice made within two years of the entry of the order to  
 887 automatically expunge such offense.

888 **§ 19.2-392.12. Disposition of records when an offense is automatically expunged; permitted uses of**  
 889 **automatically expunged records.**

890 A. Upon electronic notification that a court order for automatic expungement has been entered  
 891 pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11, the Department of State Police shall  
 892 not disseminate any criminal history record information contained in the Central Criminal Records  
 893 Exchange that relates to the arrest, criminal charge, or conviction that was ordered to be automatically  
 894 expunged, except for purposes set forth in subsection C. Upon receipt of such electronic notification, the  
 895 Department of State Police shall electronically notify those agencies and individuals known to maintain  
 896 or to have obtained such a record that such record has been ordered to be automatically expunged and  
 897 may only be disseminated for purposes set forth in subsection C.

898 B. Upon entry of a court order for automatic expungement pursuant to § 19.2-392.7, 19.2-392.8,  
 899 19.2-392.9, or 19.2-392.11, the Executive Secretary of the Supreme Court and any circuit court clerk  
 900 who maintains a case management system that interfaces with the Department of State Police under  
 901 subsection B1 of § 17.1-502 shall:

902 1. Ensure that the court record of such arrest, criminal charge, or conviction is not available for  
 903 public online viewing as directed by subsections B and C of § 17.1-293.1; and

904 2. Not disseminate any court record of such arrest, criminal charge, or conviction to the public,  
 905 except as provided in subsections D and E.

906 C. Records relating to an arrest, criminal charge, or conviction that was ordered to be automatically  
 907 expunged pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11 shall not be open for public  
 908 inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
 909 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for  
 910 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information  
 911 System; (iii) to the Virginia Criminal Sentencing Commission for research purposes; (iv) to any full-time  
 912 or part-time employee of the State Police or a police department or sheriff's office that is a part of or  
 913 administered by the Commonwealth or any political subdivision thereof for the purpose of screening any  
 914 person for full-time employment or part-time employment with, or to be a volunteer with, the State  
 915 Police or a police department or sheriff's office that is a part of or administered by the Commonwealth  
 916 or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the  
 917 purpose of screening any person who applies to be a volunteer with or an employee of an emergency

918 *medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the*  
919 *Department of Forensic Science for the purpose of screening any person for full-time or part-time*  
920 *employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a*  
921 *locality, or his designee who shall be an individual employed as a public safety official of the locality,*  
922 *that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of*  
923 *screening any person who applies to be a volunteer with or an employee of an emergency medical*  
924 *services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the*  
925 *Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as*  
926 *defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor*  
927 *Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where*  
928 *federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any*  
929 *employer or prospective employer or its designee where the position that a person is applying for, or*  
930 *where access to the premises in or upon which any part of the duties of such position is performed or is*  
931 *to be performed, is subject to any requirement imposed in the interest of the national security of the*  
932 *United States under any security program in effect pursuant to or administered under any contract with,*  
933 *or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person*  
934 *authorized to engage in the collection of court costs, fines, or restitution under subsection C of*  
935 *§ 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize*  
936 *the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to*  
937 *publish decisions of the Supreme Court and Court of Appeals, subject to the provisions of subsection B*  
938 *of § 17.1-323 and subsections B and D of § 17.1-413; (xiv) to any full-time or part-time employee of a*  
939 *court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the*  
940 *House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of*  
941 *screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court*  
942 *or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee*  
943 *where this Code requires the employer to inquire about prior criminal charges or convictions; (xvi) to*  
944 *the person arrested, charged, or convicted of the offense that was automatically expunged; (xvii) to any*  
945 *business screening service for purposes of complying with subsection C of § 19.2-392.15; and (xviii) to*  
946 *any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the*  
947 *accused, in order to comply with any constitutional and statutory duties to provide exculpatory,*  
948 *mitigating, and impeachment evidence to an accused.*

949 *D. Upon request from any person to access a court record, the clerk of court shall determine*  
950 *whether such record is open to public access and inspection. If the clerk of court determines that a*  
951 *court record has been automatically expunged, such record shall not be provided to the requestor*  
952 *without an order from the court that entered the order to automatically expunge the court record. Any*  
953 *order from a court that allows access to a court record that has been automatically expunged shall only*  
954 *be issued for one or more of the purposes set forth in subsection C. Such order to access a court record*  
955 *that has been automatically expunged shall allow the requestor to photocopy such court record. No fee*  
956 *shall be charged to any person filing a motion to access a court record that has been automatically*  
957 *expunged if the person filing such motion is the same person who was arrested, criminally charged, or*  
958 *convicted of the offense that was automatically expunged.*

959 *E. If a pleading or case document in a court record that was automatically expunged is included*  
960 *among other court records that have not been ordered to be automatically expunged, the clerk of court*  
961 *shall ensure that such pleading or case document that was ordered to be automatically expunged is*  
962 *redacted from the court record prior to allowing public access to such court record.*

963 *F. The Department of Motor Vehicles shall not automatically expunge any conviction or any charge*  
964 *that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in*  
965 *violation of federal regulatory record retention requirements or (ii) until three years after all statutory*  
966 *requirements associated with a driver's license suspension have been complied with if the Department of*  
967 *Motor Vehicles is required to administratively suspend a person's driving privileges as a result of a*  
968 *conviction or deferral and dismissal ordered to be automatically expunged. Upon receipt of an order*  
969 *directing that an offense be automatically expunged, the Department of Motor Vehicles shall*  
970 *automatically expunge all records if the federal regulatory record retention period has run or three*  
971 *years have passed since the date that all statutory requirements associated with an administrative*  
972 *suspension have been satisfied. However, if the Department of Motor Vehicles cannot automatically*  
973 *expunge an offense pursuant to this subsection at the time it is ordered, the Department of Motor*  
974 *Vehicles shall (a) notify the Department of State Police of the reason the record cannot be automatically*  
975 *expunged and cite the authority prohibiting automatic expungement at the time it is ordered, (b) notify*  
976 *the Department of State Police of the date on which such record can be automatically expunged, (c)*  
977 *automatically expunge such record on that date, and (d) notify the Department of State Police when*  
978 *such record has been automatically expunged from the Department of Motor Vehicles' records.*

979 *G. No charge or conviction that has been automatically expunged may be used to impeach the*

980 *credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by*  
 981 *specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent*  
 982 *gives an adverse party reasonable written notice of the intent to use it so that the party has a fair*  
 983 *opportunity to contest its use.*

984 **§ 19.2-392.13. Disclosure of automatically expunged records; penalty.**

985 *A. It is unlawful for any person having or acquiring access to an automatically expunged criminal*  
 986 *history or court record, except for a news organization or newsperson engaged in journalism as those*  
 987 *terms are defined in § 19.2-271.5, to disclose such record or any information from such record to*  
 988 *another person, except for the purposes authorized in subsection C of § 19.2-392.12.*

989 *B. Any person who willfully violates this section is guilty of a Class 1 misdemeanor.*

990 **§ 19.2-392.14. Prohibited practices by employers, educational institutions, agencies, etc., of state**  
 991 **and local governments; penalty.**

992 *A. Except as provided in subsection B, agencies, officials, and employees of state and local*  
 993 *governments, private employers that are not subject to federal regulations in the hiring process, and*  
 994 *educational institutions shall not, in any application, interview, or otherwise, require an applicant for*  
 995 *employment or admission to disclose information concerning any arrest, criminal charge, or conviction*  
 996 *against him that has been automatically expunged. An applicant need not, in answer to any question*  
 997 *concerning any arrest, criminal charge, or conviction, include a reference to or information concerning*  
 998 *arrests, criminal charges, or convictions that have been automatically expunged.*

999 *B. The provisions of subsection A shall not apply if:*

1000 *1. The person is applying for full-time employment or part-time employment with, or to be a*  
 1001 *volunteer with, the State Police or a police department or sheriff's office that is a part of or*  
 1002 *administered by the Commonwealth or any political subdivision thereof;*

1003 *2. This Code requires the employer to make such an inquiry;*

1004 *3. Federal law requires the employer to make such an inquiry; or*

1005 *4. The position, or access to the premises in or upon which any part of the duties of such position is*  
 1006 *performed or is to be performed, is subject to any requirement imposed in the interest of the national*  
 1007 *security of the United States under any security program in effect pursuant to or administered under any*  
 1008 *contract with, or statute or regulation of, the United States or any Executive Order of the President.*

1009 *C. Agencies, officials, and employees of state and local governments shall not, in any application,*  
 1010 *interview, or otherwise, require an applicant for a license, permit, registration, or governmental service*  
 1011 *to disclose information concerning any arrest, criminal charge, or conviction against him that has been*  
 1012 *automatically expunged. An applicant need not, in answer to any question concerning any arrest,*  
 1013 *criminal charge, or conviction, include a reference to or information concerning arrests, criminal*  
 1014 *charges, or convictions that have been automatically expunged. Such an application may not be denied*  
 1015 *solely because of the applicant's refusal to disclose information concerning any arrest, criminal charge,*  
 1016 *or conviction against him that has been automatically expunged.*

1017 *D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a*  
 1018 *dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest,*  
 1019 *criminal charge, or conviction against him that has been automatically expunged. An applicant need*  
 1020 *not, in answer to any question concerning any arrest, criminal charge, or conviction, include a*  
 1021 *reference to or information concerning arrests, criminal charges, or convictions that have been*  
 1022 *automatically expunged. Such an application may not be denied solely because of the applicant's refusal*  
 1023 *to disclose information concerning any arrest, criminal charge, or conviction against him that has been*  
 1024 *automatically expunged.*

1025 *E. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.*

1026 *F. If any entity or person listed under subsection A, C, or D includes a question about a prior*  
 1027 *criminal charge or conviction in an application for one or more of the purposes set forth in such*  
 1028 *subsections, such application shall include a notice to the applicant that a charge or conviction that has*  
 1029 *been automatically expunged does not have to be disclosed in the application. Such notice need not be*  
 1030 *included on any application for one or more of the purposes set forth in subsection B.*

1031 **§ 19.2-392.15. Background checks by business screening services.**

1032 *A. For the purposes of this section:*

1033 *"Business screening service" means a person engaged in the business of collecting, assembling,*  
 1034 *evaluating, or disseminating criminal history records on individuals for a fee. "Business screening*  
 1035 *service" does not include any government entity or the news media.*

1036 *"Criminal history record" means information collected by a business screening service on individuals*  
 1037 *consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal*  
 1038 *criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional*  
 1039 *supervision, or release.*

1040 *B. If a business screening service knows that a criminal history record has been automatically*

1041 *expunged, the business screening service shall promptly delete the record.*

1042 *C. A business screening service may register with the Department of State Police to receive copies of*  
 1043 *orders of automatic expungement provided to the Department of State Police pursuant to §§ 19.2-392.7,*  
 1044 *19.2-392.10, and 19.2-392.11. The orders of automatic expungement received by the business screening*  
 1045 *service shall remain confidential and shall not be disseminated. The orders of automatic expungement*  
 1046 *shall be used for the sole purpose of deleting criminal history records that have been automatically*  
 1047 *expunged. The business screening service shall destroy the copies of the orders of automatic*  
 1048 *expungement after deleting the information contained in such orders from criminal history records.*

1049 *D. A business screening service that disseminates a criminal history record on or after July 1, 2025,*  
 1050 *must include the date when the record was collected by the business screening service and a notice that*  
 1051 *the information may include criminal history records that have been automatically expunged since that*  
 1052 *date.*

1053 *E. If the completeness or accuracy of a criminal record maintained by a business screening service*  
 1054 *is disputed by the individual who is the subject of the record, the screening service shall, without*  
 1055 *charge, investigate the disputed record. If, upon investigation, the screening service determines that the*  
 1056 *record does not accurately reflect the content of the official record, the screening service shall correct*  
 1057 *the disputed record so as to accurately reflect the content of the official record. If the disputed record is*  
 1058 *found to have been automatically expunged, the business screening service shall promptly delete the*  
 1059 *record. A business screening service may terminate an investigation of a disputed record if the business*  
 1060 *screening agency reasonably determines that the dispute is frivolous, which may be based on the failure*  
 1061 *of the subject of the record to provide sufficient information to investigate the disputed record. Upon*  
 1062 *making a determination that the dispute is frivolous, the business screening service shall inform the*  
 1063 *subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall*  
 1064 *provide a description of any information required to investigate the disputed record. The business*  
 1065 *screening service shall notify the subject of the disputed record of the correction or deletion of the*  
 1066 *record or of the termination or completion of the investigation related to the record within 30 days of*  
 1067 *the date when the agency receives notice of the dispute from the subject of the record. A business*  
 1068 *screening service that complies with this subsection is not in violation of this section.*

1069 *F. A business screening service that violates this section is liable to the person who is the subject of*  
 1070 *the criminal history record for a penalty of \$1,000 or actual damages caused by the violation,*  
 1071 *whichever is greater, plus costs and reasonable attorney fees. Prior to filing suit for an alleged violation*  
 1072 *of this section, the person who is the subject of the criminal history record must have filed a dispute*  
 1073 *with the business screening service as provided in subsection E.*

1074 *G. The Attorney General may file a civil action to enforce this section. If the court finds that a*  
 1075 *business screening service has willfully engaged in an act or practice in violation of this section, the*  
 1076 *Attorney General may recover for the Literary Fund, upon petition to the court, a civil penalty of not*  
 1077 *more than \$2,500 per violation. For the purposes of this section, prima facie evidence of a willful*  
 1078 *violation may be shown when the Attorney General notifies the alleged violator by certified mail that an*  
 1079 *act or practice is a violation of this section and the alleged violator, after receipt of said notice,*  
 1080 *continues to engage in the act or practice. In any civil action pursuant to this subsection, in addition to*  
 1081 *any civil penalty awarded, the Attorney General may also recover any costs and reasonable expenses*  
 1082 *incurred by the state in investigating and preparing the case, not to exceed \$1,000 per violation, and*  
 1083 *attorney fees. Such additional costs and expenses shall be paid into the general fund of the*  
 1084 *Commonwealth.*

1085 *H. A business screening service that disseminates criminal history record information in the*  
 1086 *Commonwealth is deemed to have consented to service of process in the Commonwealth and to the*  
 1087 *jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the*  
 1088 *recovery of remedies under this section.*

1089 *I. A business screening service in compliance with the applicable provisions of the federal Fair*  
 1090 *Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et*  
 1091 *seq., is considered to be in compliance with this section. A business screening service is subject to the*  
 1092 *state remedies under this section when its actions would violate this section and federal law.*

1093 **§ 19.2-392.16. Expungement; employer immunity.**

1094 *Any employer that employs a worker who has had an offense automatically expunged shall not, at*  
 1095 *any time, be subject to any administrative or legal claim or cause of action related to the worker's*  
 1096 *automatically expunged offense. Except for the purposes set forth in subsection B of § 19.2-392.14, an*  
 1097 *employer shall not use automatically expunged information adversely against an employee. No*  
 1098 *information related to an automatically expunged offense shall be used or introduced as evidence in any*  
 1099 *administrative or legal proceeding involving negligent hiring, negligent retention, or similar claims.*

1100 **2. That the provisions of §§ 19.2-72, 19.2-74, 19.2-340, and 19.2-390 of the Code of Virginia, as**  
 1101 **amended by this act, shall become effective on July 1, 2022.**

1102 **3. That the Department of State Police shall delete all records from the Central Criminal Records**

1103 Exchange that were not required to be reported to the Central Criminal Records Exchange under  
1104 subdivision A 1 of § 19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2022.

1105 4. That the Attorney General, after consultation with the Committee on District Courts, the  
1106 Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall  
1107 amend the uniform summons described in § 46.2-388 of the Code of Virginia to reflect the  
1108 amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by  
1109 this act, by July 1, 2022.

1110 5. That the provisions of §§ 9.1-101, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, and 19.2-310.7 of the  
1111 Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of  
1112 the Code of Virginia, as created by this act, shall become effective on July 1, 2025.

1113 6. That the Department of State Police shall first transmit the list required under subsection B of  
1114 § 19.2-392.7 of the Code of Virginia, as created by this act, not later than October 1, 2025.

1115 7. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police,  
1116 and any circuit court clerk who maintains a case management system that interfaces with the  
1117 Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended  
1118 by this act, shall automate systems to exchange information as required by §§ 19.2-392.7,  
1119 19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by July 1, 2025.

1120 8. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for  
1121 requesting and authorizing access to an automatically expunged court record as set forth in section  
1122 D of § 19.2-392.12 of the Code of Virginia, as created by this act, by July 1, 2025.

1123 9. That the Department of State Police shall purchase Criminal History, Expungement, Master  
1124 Name Index, Rap Back, Civil Commitment, Applicant Tracking, and such other solutions or  
1125 services as may be necessary to implement this act. The purchase of these solutions or services  
1126 shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of  
1127 the Code of Virginia).

1128 10. That the Virginia State Crime Commission shall consult with stakeholders to determine and  
1129 recommend methods to educate the public on the automatic expungement process and the effects  
1130 of an order to automatically expunge an arrest, criminal charge, or conviction and shall report on  
1131 such recommended methods by December 15, 2022.

1132 11. That the Executive Secretary of the Supreme Court of Virginia, the Department of State  
1133 Police, and any circuit court clerk who maintains a case management system that interfaces with  
1134 the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as  
1135 amended by this act, shall each provide a report to the Virginia State Crime Commission on the  
1136 progress of implementing automated systems to exchange information as required by §§ 19.2-392.7,  
1137 19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by November 1, 2022,  
1138 and by November 1 of each year thereafter until the automated systems have been fully  
1139 implemented.

1140 12. That the Department of State Police shall determine the feasibility and cost of implementing an  
1141 automated system to review out-of-state criminal history records and report to the Virginia State  
1142 Crime Commission by November 1, 2022, and by November 1 of each year thereafter until such  
1143 determination has been made.

1144 13. That the Virginia Court Clerks' Association shall determine the necessary staffing and  
1145 technology costs of implementing the provisions of this act and report to the Virginia State Crime  
1146 Commission by November 1, 2022, and by November 1 of each year thereafter until such  
1147 determination has been made.

1148 14. That the provisions of this act may result in a net increase in periods of imprisonment or  
1149 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
1150 necessary appropriation cannot be determined for periods of imprisonment in state adult  
1151 correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the  
1152 Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant  
1153 to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot  
1154 be determined for periods of commitment to the custody of the Department of Juvenile Justice.