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HOUSE BILL NO. 1050

Offered January 22, 1996

A BILL to amend and reenact § 16.1-306 of the Code of Virginia, as it is currently effective and as it may become effective, relating to expungement of juvenile records.

Patron—Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-306 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:**

§ 16.1-306. Expungement of court records.

A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records connected with any proceeding concerning a juvenile in such court, if such juvenile has attained the age of nineteen years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section. However, if the juvenile was found guilty of a delinquent act which would be a felony if committed by an adult, or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records shall be destroyed when the juvenile has attained the age of twenty-nine.

B. In all files in which the court records concerning a juvenile contain a finding of guilty of a delinquent act which would be a felony if committed by an adult or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles together with findings of not innocent of other acts, all of the records of such juvenile subject to this section shall be retained and available for inspection as provided in § 16.1-305.

C. B. Except in cases where a juvenile fourteen years of age or older at the time of the offense was found guilty of a delinquent act which would be a felony if committed by an adult, a person who has been the subject of a delinquency or traffic proceeding and whose records fall within the provisions of subsection B A hereof may, after ten years since the date of the last hearing in any case of the juvenile which is subject to this section, file a motion requesting the destruction of all records pertaining to his case. Notice of such motion shall be given to the attorney for the Commonwealth. After a hearing on the matter, if the court grants the motion, copies of the order shall be sent to offices or agencies that are repositories of such records, and all such offices and agencies shall comply with the order.

D. C. A person who has been the subject of a delinquency or traffic proceeding and (i) has been found innocent thereof or (ii) such proceeding was otherwise dismissed, may file a motion requesting the destruction of all records pertaining to the charge of such an act of delinquency. Notice of such motion shall be given to the attorney for the Commonwealth. Unless good cause is shown why such records should not be destroyed, the court shall grant the motion, and shall send copies of the order to all officers or agencies that are repositories of such records, and all such officers and agencies shall comply with the order.

E. D. Each person shall be notified of his rights under subsections A, B and C and D of this section at the time of his dispositional hearing.

F. E. Upon destruction of the records of a proceeding as provided in subsections A, B, and C and D, the violation of law shall be treated as if it never occurred. All index references shall be deleted and the court and law-enforcement officers and agencies shall reply and the person may reply to any inquiry that no record exists with respect to such person.

G. F. All docket sheets shall be destroyed in the sixth year after the last hearing date recorded on the docket sheet.

§ 16.1-306. (Delayed effective date) Expungement of court records.

A. Notwithstanding the provisions of § 16.1-69.55 and except for adoption records governed by § 63.1-235, the clerk of the family court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records connected with any proceeding concerning a juvenile in such court, if such juvenile has attained the age of nineteen years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section. However, if the juvenile was found guilty of a delinquent act which would be a felony if committed by an adult, or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records shall be destroyed when the juvenile has attained the age of twenty-nine.

B. In all files in which the court records concerning a juvenile contain a finding of guilty of a

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60 delinquent act which would be a felony if committed by an adult or an offense for which the clerk is
61 required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles together with findings
62 of not innocent of other acts, all of the records of such juvenile subject to this section shall be retained
63 and available for inspection as provided in § 16.1-305.

64 ~~C.~~ B. Except in cases where a juvenile fourteen years of age or older at the time of the offense was
65 found guilty of a delinquent act which would be a felony if committed by an adult, a person who has
66 been the subject of a delinquency or traffic proceeding and whose records fall within the provisions of
67 subsection ~~B~~ A hereof may, after ten years since the date of the last hearing in any case of the juvenile
68 which is subject to this section, file a motion requesting the destruction of all records pertaining to his
69 case. Notice of such motion shall be given to the attorney for the Commonwealth. After a hearing on
70 the matter, if the court grants the motion, copies of the order shall be sent to offices or agencies that are
71 repositories of such records, and all such offices and agencies shall comply with the order.

72 ~~D.~~ C. A person who has been the subject of a delinquency or traffic proceeding and (i) has been
73 found innocent thereof or (ii) such proceeding was otherwise dismissed, may file a motion requesting
74 the destruction of all records pertaining to the charge of such an act of delinquency. Notice of such
75 motion shall be given to the attorney for the Commonwealth. Unless good cause is shown why such
76 records should not be destroyed, the court shall grant the motion, and shall send copies of the order to
77 all officers or agencies that are repositories of such records, and all such officers and agencies shall
78 comply with the order.

79 ~~E.~~ D. Each person shall be notified of his rights under subsections ~~A~~, B and C ~~and D~~ of this section
80 at the time of his dispositional hearing.

81 ~~F.~~ E. Upon destruction of the records of a proceeding as provided in subsections ~~A~~, B, and C ~~and D~~,
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