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SENATE BILL NO. 1168

Offered January 9, 2019

Prefiled January 3, 2019

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

Patron—DeSteph

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

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

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

A. As used in this section:

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

"Regulant" means any person holding a license, registration, or certificate with a regulatory board within Subtitle II (§ 54.1-200 et seq.) of this subtitle.

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

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

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

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

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

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

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

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

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