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HOUSE BILL NO. 2113

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on January 29, 2021)

(Patron Prior to Substitute—Delegate Herring)

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; penalties.

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.

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

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

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

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of

60 criminal history record information. The operations of the system may be performed manually or by  
61 using electronic computers or other automated data processing equipment.

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

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

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

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

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

120 "School security officer" means an individual who is employed by the local school board or a private  
121 or religious school for the singular purpose of maintaining order and discipline, preventing crime,

122 investigating violations of the policies of the school board or the private or religious school, and  
 123 detaining students violating the law or the policies of the school board or the private or religious school  
 124 on school property, school buses, or at school-sponsored events and who is responsible solely for  
 125 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned  
 126 school.

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

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 159 within the context of its criminal justice activities, employs special conservators of the peace appointed  
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 161 requires its officers or special conservators to meet compulsory training standards established by the  
 162 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)  
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244 record of an arrested or convicted person (i) because such information is not supported by fingerprints

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246 within the content of the submitted information.

247 **§ 17.1-293.1. Online case information system.**

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

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

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

261 **§ 17.1-323. Clerk to deliver opinions to Reporter.**

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

265 *B. If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,  
266 19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Supreme Court  
267 exists in relation to that offense, the clerk shall redact the name of the person charged with the offense  
268 that was ordered to be automatically expunged from any decision or order of the Supreme Court that  
269 references such offense, unless such decision or order also includes offenses that were not ordered to be  
270 automatically expunged.*

271 **§ 17.1-413. Opinions; reporting, printing and electronic publication.**

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

281 *B. If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,  
282 19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Court of Appeals  
283 exists in relation to that offense, the clerk of the Court of Appeals shall redact the name of the person  
284 charged with the offense that was ordered to be automatically expunged from any decision or order of  
285 the Court of Appeals that references such offense, unless such decision or order also includes offenses  
286 that were not ordered to be automatically expunged.*

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

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

299 **§ 17.1-502. Administrator of circuit court system.**

300 A. The Executive Secretary of the Supreme Court shall be the administrator of the circuit court  
301 system, which includes the operation and maintenance of a case management system and financial  
302 management system and related technology improvements.

303 B. Any circuit court clerk may establish and maintain his own case management system, financial  
304 management system, or other independent technology using automation or technology improvements  
305 provided by a private vendor or the locality. Any data from the clerk's independent system may be

306 provided directly from such clerk to designated state agencies. The data from the clerk's independent  
307 system may also be provided to designated state agencies through an interface with the technology  
308 systems operated by the Executive Secretary.

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

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

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

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

331 **§ 19.2-72. When it may issue; what to recite and require.**

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

360 **§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance**  
361 **of summons by special conservators of the peace.**

362 A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any  
363 violation committed in such officer's presence which offense is a violation of any county, city or town  
364 ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other  
365 misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for  
366 offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a  
367 summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the

368 arresting officer shall take the name and address of such person and issue a summons or otherwise  
 369 notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the  
 370 giving by such person of his written promise to appear at such time and place, the officer shall forthwith  
 371 release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful  
 372 act, the officer may proceed according to the provisions of § 19.2-82.

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

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

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

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

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

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

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

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

409 **§ 19.2-310.7. Expungement when DNA taken for a conviction.**

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

418 *B. Entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or*  
 419 *19.2-392.11 shall not serve as grounds for expungement of a person's DNA profile or any records in the*  
 420 *data bank relating to that DNA profile.*

421 **§ 19.2-340. Fines; how recovered; in what name.**

422 When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would  
 423 be inconsistent with the manifest intention of the General Assembly, it shall be paid to the  
 424 Commonwealth if prescribed by a statute and recoverable by presentment, indictment, information, or  
 425 warrant and paid to the locality if prescribed by an ordinance and recoverable by warrant. *Whenever any*  
 426 *warrant or summons is issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any*  
 427 *county, city, or town ordinance that is similar to any provision of this Code, and such warrant or*  
 428 *summons references the offense using both the citation corresponding to the county, city, or town*

429 ordinance and the specific provision of this Code, any fine prescribed by the county, city, or town  
 430 ordinance shall be paid to the locality. Fines imposed and costs taxed in a criminal or traffic  
 431 prosecution, including a prosecution for a violation of an ordinance adopted pursuant to § 46.2-1220, for  
 432 committing an offense shall constitute a judgment and, if not paid at the time they are imposed,  
 433 execution may issue thereon in the same manner as upon any other monetary judgment, subject to the  
 434 period of limitations provided by § 19.2-341.

435 **§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record**  
 436 **information; prohibited practices by employers, educational institutions, and state and local**  
 437 **governments; penalty.**

438 A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of  
 439 § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed  
 440 pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for  
 441 public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
 442 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in  
 443 the preparation of a pretrial investigation report prepared by a local pretrial services agency established  
 444 pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation  
 445 report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing  
 446 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based  
 447 probation services agencies established pursuant to the Comprehensive Community Corrections Act for  
 448 Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local responsible  
 449 offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint  
 450 comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
 451 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
 452 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing  
 453 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time  
 454 employee of the State Police, a police department, or sheriff's office that is a part of or administered by  
 455 the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and  
 456 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for  
 457 purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia  
 458 Criminal Sentencing Commission for research purposes; (viii) (iv) to any full-time or part-time employee  
 459 of the State Police or a police department or sheriff's office that is a part of or administered by the  
 460 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time  
 461 or part-time employment with, or to be a volunteer with, the State Police or a police department or  
 462 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
 463 thereof; (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any  
 464 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
 465 provided in § 32.1-111.5; (x) (vi) to any full-time or part-time employee of the Department of Forensic  
 466 Science for the purpose of screening any person for full-time or part-time employment with the  
 467 Department of Forensic Science; (xi) (vii) to the chief law-enforcement officer of a locality, or his  
 468 designee who shall be an individual employed as a public safety official of the locality, that has adopted  
 469 an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person  
 470 who applies to be a volunteer with or an employee of an emergency medical services agency as  
 471 provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of  
 472 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49  
 473 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety  
 474 Administration; (ix) to any employer or prospective employer or its designee where federal law requires  
 475 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective  
 476 employer or its designee where the position that a person is applying for, or where access to the  
 477 premises in or upon which any part of the duties of such position is performed or is to be performed, is  
 478 subject to any requirement imposed in the interest of the national security of the United States under  
 479 any security program in effect pursuant to or administered under any contract with, or statute or  
 480 regulation of, the United States or any Executive Order of the President; (xi) to any person authorized  
 481 to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for  
 482 purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA  
 483 Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish  
 484 decisions of the Supreme Court and Court of Appeals, subject to the provisions of subsection B of  
 485 § 17.1-323 and subsections B and D of § 17.1-413; (xiv) to any full-time or part-time employee of a  
 486 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the  
 487 House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of  
 488 screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court  
 489 or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee  
 490 where this Code requires the employer to inquire about prior criminal charges or convictions; (xvi) to



491 *the person arrested, charged, or convicted of the offense that was automatically expunged; (xvii) to any*  
 492 *business screening service for purposes of complying with subsection C of § 19.2-392.15; and (xviii) to*  
 493 *any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the*  
 494 *accused, in order to comply with any constitutional and statutory duties to provide exculpatory,*  
 495 *mitigating, and impeachment evidence to an accused.*

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

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

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

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

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

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

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

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

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

536 **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace,**  
 537 **clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material**  
 538 **submitted by other agencies.**

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

546 *a. Treason;*

547 *b. Any felony;*

548 *c. Any offense punishable as a misdemeanor under Title 54.1;*

549 *d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar*  
 550 *ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or*

551 *e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,*

552 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,  
553 63.2-1509, or 63.2-1727.

554 e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
555 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,  
556 60.2-632, or 63.2-1509.

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

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

569 2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or  
570 § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if  
571 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
572 (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii)  
573 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal,  
574 the court shall remand the individual to the custody of the office of the chief law-enforcement officer of  
575 the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be  
576 the arresting officer, to ensure that such report is completed for each charge after a determination of  
577 guilt or acquittal by reason of insanity. The court shall require the officer to complete the report  
578 immediately following the person's conviction or acquittal, and the individual shall be discharged from  
579 custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him  
580 committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

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

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

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

603 B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a  
604 charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the  
605 law-enforcement agency which received the warrant shall enter the person's name and other appropriate  
606 information required by the Department of State Police into the "information systems" known as the  
607 Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant  
608 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC),  
609 maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of  
610 birth, social security number and such other known information which the State Police or Federal  
611 Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the  
612 warrant or *capias* may transfer information electronically into VCIN. When the information is  
613 electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias*

614 to the local police department or sheriff's office. When criminal process has been ordered destroyed  
 615 pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of  
 616 any information relating to the destroyed criminal process from the VCIN and NCIC.

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

624 C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or  
 625 § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central  
 626 Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251,  
 627 or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency  
 628 or incapacity, deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or  
 629 failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection  
 630 A, including any action that may have resulted from an indictment, presentment or information, or any  
 631 finding that the person is in violation of the terms or conditions of a suspended sentence or probation  
 632 for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an  
 633 adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A  
 634 and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic  
 635 report by the clerk of each circuit court and district court to the Central Criminal Records Exchange  
 636 may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if  
 637 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
 638 (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c)  
 639 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court  
 640 shall make an electronic report to the Central Criminal Records Exchange of any finding that a person  
 641 charged on a summons is in violation of the terms or conditions of a suspended sentence or probation  
 642 for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection~~  
 643 ~~A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making~~  
 644 ~~the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any  
 645 person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether  
 646 sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902,  
 647 the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against  
 648 Minors Registry. The report to the Registry shall include the name of the person convicted and all  
 649 aliases that he is known to have used, the date and locality of the conviction for which registration is  
 650 required, his date of birth, social security number, and last known address, and specific reference to the  
 651 offense for which he was convicted. No report of conviction or adjudication in a district court shall be  
 652 filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event  
 653 that the records in the office of any clerk show that any conviction or adjudication has been nullified in  
 654 any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry.  
 655 In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court,  
 656 shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the  
 657 case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or  
 658 Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition  
 659 previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall  
 660 report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

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

667 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining  
 668 correctional status information, as required by the regulations of the Department of Criminal Justice  
 669 Services, with respect to individuals about whom reports have been made under the provisions of this  
 670 chapter shall make reports of changes in correctional status information to the Central Criminal Records  
 671 Exchange. The reports to the Exchange shall include any commitment to or release or escape from a  
 672 state or local correctional facility, including commitment to or release from a parole or probation  
 673 agency.

674 F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to

675 the Exchange by the office of the Secretary of the Commonwealth.

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

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

684 I. As used in this section:

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

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

#### 694 CHAPTER 23.2.

#### 695 AUTOMATIC EXPUNGEMENT OF CRIMINAL RECORDS.

#### 696 § 19.2-392.5. *Automatic expungement defined; effect of automatic expungement.*

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

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

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

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

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

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

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

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

733 E. An order to automatically expunge an arrest, criminal charge, or conviction entered pursuant to  
 734 § 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,  
 735 criminally charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or  
 736 restitution in relation to the offense that was ordered to be automatically expunged.

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

739 **§ 19.2-392.6. Automatic expungement of offenses resulting in a deferred and dismissed disposition**  
 740 **or conviction.**

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

745 *B. If a person was convicted of a violation of any of the following sections, such conviction shall be*  
 746 *ordered to be automatically expunged in the manner set forth in § 19.2-392.7, subject to the provisions*  
 747 *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,*  
 748 *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,*  
 749 *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,*  
 750 *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,*  
 751 *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,*  
 752 *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,*  
 753 *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,*  
 754 *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,*  
 755 *18.2-487, 18.2-488, 18.2-499, 18.2-505, or 18.2-511.1.*

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

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

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

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

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

779 **§ 19.2-392.7. Process for automatic expungement of offenses resulting in a conviction or deferred**  
 780 **disposition.**

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

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

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

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

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

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

804 **§ 19.2-392.8. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
805 **dismissal.**

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

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

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

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

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

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

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

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

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

827 **§ 19.2-392.9. Automatic expungement for mistaken identity or unauthorized use of identifying**  
828 **information.**

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

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

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

843 **§ 19.2-392.10. Process for automatic expungement of offenses resulting in acquittal, nolle**  
844 **prosequi, or dismissal.**

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

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

852 **§ 19.2-392.11. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
853 **dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history**  
854 **record.**

855 A. On at least an annual basis, the Department of State Police shall review the Central Criminal  
856 Records Exchange and identify all persons with finalized case dispositions that resulted in (i) an  
857 acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and  
858 dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record  
859 of such person contains no convictions for any criminal offense, excluding traffic infractions under Title

860 46.2. For purposes of this subsection, any offense on the person's criminal history record that has  
861 previously been ordered to be automatically expunged shall not be deemed a conviction.

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

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

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

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

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

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

886 **§ 19.2-392.12. Disposition of records when an offense is automatically expunged; permitted uses of**  
887 **automatically expunged records.**

888 A. Upon electronic notification that a court order for automatic expungement has been entered  
889 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  
890 not disseminate any criminal history record information contained in the Central Criminal Records  
891 Exchange that relates to the arrest, criminal charge, or conviction that was ordered to be automatically  
892 expunged, except for purposes set forth in subsection C. Upon receipt of such electronic notification, the  
893 Department of State Police shall electronically notify those agencies and individuals known to maintain  
894 or to have obtained such a record that such record has been ordered to be automatically expunged and  
895 may only be disseminated for purposes set forth in subsection C. Any records maintained electronically  
896 that are transformed or transferred by whatever means to an offline system or to a confidential and  
897 secure area inaccessible from normal use within the system in which the record is maintained shall be  
898 considered automatically expunged, provided that such records are accessible only to the manager of  
899 the records.

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

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

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

908 C. Records relating to an arrest, criminal charge, or conviction that was ordered to be automatically  
909 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  
910 inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
911 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for  
912 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information  
913 System; (iii) to the Virginia Criminal Sentencing Commission for research purposes; (iv) to any full-time  
914 or part-time employee of the State Police or a police department or sheriff's office that is a part of or  
915 administered by the Commonwealth or any political subdivision thereof for the purpose of screening any  
916 person for full-time employment or part-time employment with, or to be a volunteer with, the State  
917 Police or a police department or sheriff's office that is a part of or administered by the Commonwealth  
918 or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the  
919 purpose of screening any person who applies to be a volunteer with or an employee of an emergency  
920 medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the

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

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

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

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

980 G. No charge or conviction that has been automatically expunged may be used to impeach the  
981 credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by  
982 specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent



983 gives an adverse party reasonable written notice of the intent to use it so that the party has a fair  
984 opportunity to contest its use.

985 **§ 19.2-392.13. Disclosure of automatically expunged records; penalty.**

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

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

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

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

1000 B. The provisions of subsection A shall not apply if:

1001 1. The person is applying for full-time employment or part-time employment with, or to be a  
1002 volunteer with, the State Police or a police department or sheriff's office that is a part of or  
1003 administered by the Commonwealth or any political subdivision thereof;

1004 2. This Code requires the employer to make such an inquiry;

1005 3. Federal law requires the employer to make such an inquiry; or

1006 4. The position, or access to the premises in or upon which any part of the duties of such position is  
1007 performed or is to be performed, is subject to any requirement imposed in the interest of the national  
1008 security of the United States under any security program in effect pursuant to or administered under any  
1009 contract with, or statute or regulation of, the United States or any Executive Order of the President.

1010 C. Agencies, officials, and employees of state and local governments shall not, in any application,  
1011 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service  
1012 to disclose information concerning any arrest, criminal charge, or conviction against him that has been  
1013 automatically expunged. An applicant need not, in answer to any question concerning any arrest,  
1014 criminal charge, or conviction, include a reference to or information concerning arrests, criminal  
1015 charges, or convictions that have been automatically expunged. Such an application may not be denied  
1016 solely because of the applicant's refusal to disclose information concerning any arrest, criminal charge,  
1017 or conviction against him that has been automatically expunged.

1018 D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a  
1019 dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest,  
1020 criminal charge, or conviction against him that has been automatically expunged. An applicant need  
1021 not, in answer to any question concerning any arrest, criminal charge, or conviction, include a  
1022 reference to or information concerning arrests, criminal charges, or convictions that have been  
1023 automatically expunged. Such an application may not be denied solely because of the applicant's refusal  
1024 to disclose information concerning any arrest, criminal charge, or conviction against him that has been  
1025 automatically expunged.

1026 E. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

1027 F. If any entity or person listed under subsection A, C, or D includes a question about a prior  
1028 criminal charge or conviction in an application for one or more of the purposes set forth in such  
1029 subsections, such application shall include, or such entity or person shall provide, a notice to the  
1030 applicant that a charge or conviction that has been automatically expunged does not have to be  
1031 disclosed in the application. Such notice need not be included on any application for one or more of the  
1032 purposes set forth in subsection B.

1033 **§ 19.2-392.15. Background checks by business screening services.**

1034 A. For the purposes of this section:

1035 "Business screening service" means a person engaged in the business of collecting, assembling,  
1036 evaluating, or disseminating Virginia criminal history records on individuals for a fee. "Business  
1037 screening service" does not include any government entity or the news media.

1038 "Criminal history record" means information collected by a business screening service on individuals  
1039 consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal  
1040 criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional  
1041 supervision, or release.

1042 "Delete" means that a criminal history record shall not be disseminated in any manner, except to  
1043 any entity authorized to receive and use such information pursuant to subsection B of § 19.2-392.14, but

1044 *may be retained in order to resolve any disputes relating to the accuracy of the record consistent with*  
1045 *the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15*  
1046 *U.S.C. § 6801 et seq.*

1047 *B. If a business screening service knows that a criminal history record has been automatically*  
1048 *expunged, the business screening service shall promptly delete the record.*

1049 *C. A business screening service shall register with the Department of State Police to electronically*  
1050 *receive copies of orders of automatic expungement provided to the Department of State Police pursuant*  
1051 *to §§ 19.2-392.7, 19.2-392.10, and 19.2-392.11. The orders of automatic expungement received by the*  
1052 *business screening service shall remain confidential and shall not be disseminated. The orders of*  
1053 *automatic expungement shall be used for the sole purpose of deleting criminal history records that have*  
1054 *been automatically expunged. The business screening service shall destroy the copies of the orders of*  
1055 *automatic expungement after deleting the information contained in such orders from criminal history*  
1056 *records.*

1057 *D. A business screening service that disseminates a criminal history record on or after July 1, 2025,*  
1058 *must include the date when the record was collected by the business screening service and a notice that*  
1059 *the information may include criminal history records that have been automatically expunged since that*  
1060 *date.*

1061 *E. If the completeness or accuracy of a criminal record maintained by a business screening service*  
1062 *is disputed by the individual who is the subject of the record, the business screening service shall,*  
1063 *without charge, investigate the disputed record. If, upon investigation, the business screening service*  
1064 *determines that the record does not accurately reflect the content of the official record, the business*  
1065 *screening service shall correct the disputed record so as to accurately reflect the content of the official*  
1066 *record. If the disputed record is found to have been automatically expunged, the business screening*  
1067 *service shall promptly delete the record. A business screening service may terminate an investigation of*  
1068 *a disputed record if the business screening service reasonably determines that the dispute is frivolous,*  
1069 *which may be based on the failure of the subject of the record to provide sufficient information to*  
1070 *investigate the disputed record. Upon making a determination that the dispute is frivolous, the business*  
1071 *screening service shall inform the subject of the record of the specific reasons why it has determined*  
1072 *that the dispute is frivolous and shall provide a description of any information required to investigate*  
1073 *the disputed record. The business screening service shall notify the subject of the disputed record of the*  
1074 *correction or deletion of the record or of the termination or completion of the investigation related to*  
1075 *the record within 30 days of the date when the business screening service receives notice of the dispute*  
1076 *from the subject of the record. A business screening service that complies with this subsection is not in*  
1077 *violation of this section.*

1078 *F. A business screening service that violates this section is liable to the person who is the subject of*  
1079 *the criminal history record for a penalty of \$1,000 or actual damages caused by the violation,*  
1080 *whichever is greater, plus costs and reasonable attorney fees. Prior to filing suit for an alleged violation*  
1081 *of this section, the person who is the subject of the criminal history record must have filed a dispute*  
1082 *with the business screening service and the business screening service must have been given an*  
1083 *opportunity to respond as provided in subsection E.*

1084 *G. The Attorney General may file a civil action to enforce this section. If the court finds that a*  
1085 *business screening service has willfully engaged in an act or practice in violation of this section, the*  
1086 *Attorney General may recover for the Literary Fund, upon petition to the court, a civil penalty of not*  
1087 *more than \$2,500 per violation. For the purposes of this section, prima facie evidence of a willful*  
1088 *violation may be shown when the Attorney General notifies the alleged violator by certified mail that an*  
1089 *act or practice is a violation of this section and the alleged violator, after receipt of said notice,*  
1090 *continues to engage in the act or practice. In any civil action pursuant to this subsection, in addition to*  
1091 *any civil penalty awarded, the Attorney General may also recover any costs and reasonable expenses*  
1092 *incurred by the state in investigating and preparing the case, not to exceed \$1,000 per violation, and*  
1093 *attorney fees. Such additional costs and expenses shall be paid into the general fund of the*  
1094 *Commonwealth.*

1095 *H. A business screening service that disseminates criminal history record information in the*  
1096 *Commonwealth is deemed to have consented to service of process in the Commonwealth and to the*  
1097 *jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the*  
1098 *recovery of remedies under this section.*

1099 *I. A business screening service in compliance with the applicable provisions of the federal Fair*  
1100 *Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et*  
1101 *seq., is considered to be in compliance with this section. A business screening service is subject to the*  
1102 *state remedies under this section if its actions would violate this section and federal law.*

1103 **§ 19.2-392.16. Expungement; employer immunity.**

1104 *Any employer that employs a worker who has had an offense automatically expunged shall not, at*  
1105 *any time, be subject to any administrative or legal claim or cause of action related to the worker's*

1106 *automatically expunged offense. Except for the purposes set forth in subsection B of § 19.2-392.14, an*  
1107 *employer shall not use automatically expunged information adversely against an employee. No*  
1108 *information related to an automatically expunged offense shall be used or introduced as evidence in any*  
1109 *administrative or legal proceeding involving negligent hiring, negligent retention, or similar claims.*  
1110 **2. That the Department of State Police shall delete all records from the Central Criminal Records**  
1111 **Exchange that were not required to be reported to the Central Criminal Records Exchange under**  
1112 **subdivision A 1 of § 19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2021.**  
1113 **3. That the Attorney General, after consultation with the Committee on District Courts, the**  
1114 **Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall**  
1115 **amend the uniform summons described in § 46.2-388 of the Code of Virginia to reflect the**  
1116 **amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by**  
1117 **this act, by July 1, 2021.**  
1118 **4. 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**  
1119 **Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of**  
1120 **the Code of Virginia, as created by this act, shall become effective on July 1, 2025.**  
1121 **5. That the Department of State Police shall first transmit the list required under subsection B of**  
1122 **§ 19.2-392.7 of the Code of Virginia, as created by this act, not later than October 1, 2025.**  
1123 **6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police,**  
1124 **and any circuit court clerk who maintains a case management system that interfaces with the**  
1125 **Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended**  
1126 **by this act, shall automate systems to exchange information as required by §§ 19.2-392.7,**  
1127 **19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by July 1, 2025.**  
1128 **7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for**  
1129 **requesting and authorizing access to an automatically expunged court record as set forth in section**  
1130 **D of § 19.2-392.12 of the Code of Virginia, as created by this act, by July 1, 2025.**  
1131 **8. That the Department of State Police shall purchase Criminal History, Expungement, Master**  
1132 **Name Index, Rap Back, Civil Commitment, Applicant Tracking, and such other solutions or**  
1133 **services as may be necessary to implement this act. The purchase of these solutions or services**  
1134 **shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of**  
1135 **the Code of Virginia).**  
1136 **9. That the Virginia State Crime Commission shall consult with stakeholders to determine and**  
1137 **recommend methods to educate the public on the automatic expungement process and the effects**  
1138 **of an order to automatically expunge an arrest, criminal charge, or conviction and shall report on**  
1139 **such recommended methods by December 15, 2021.**  
1140 **10. That the Executive Secretary of the Supreme Court of Virginia, the Department of State**  
1141 **Police, and any circuit court clerk who maintains a case management system that interfaces with**  
1142 **the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as**  
1143 **amended by this act, shall each provide a report to the Virginia State Crime Commission on the**  
1144 **progress of implementing automated systems to exchange information as required by §§ 19.2-392.7,**  
1145 **19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by November 1, 2021,**  
1146 **and by November 1 of each year thereafter until the automated systems have been fully**  
1147 **implemented.**  
1148 **11. That the Department of State Police shall determine the feasibility and cost of implementing an**  
1149 **automated system to review out-of-state criminal history records and report to the Virginia State**  
1150 **Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such**  
1151 **determination has been made.**  
1152 **12. That the Virginia Court Clerks' Association shall determine the necessary staffing and**  
1153 **technology costs of implementing the provisions of this act and report to the Virginia State Crime**  
1154 **Commission by November 1, 2021, and by November 1 of each year thereafter until such**  
1155 **determination has been made.**  
1156 **13. That the Department of State Police shall consult with the Department of Motor Vehicles in**  
1157 **determining the form and content of the electronic notice to be provided to the Department of**  
1158 **Motor Vehicles as required in subsection A of § 19.2-392.12 of the Code of Virginia, as created by**  
1159 **this act.**  
1160 **14. That the Department of Criminal Justice Services shall develop regulations governing the**  
1161 **disposition of automatically expunged records in accordance with § 19.2-392.12 of the Code of**  
1162 **Virginia, as created by this act.**  
1163 **15. That the provisions of this act may result in a net increase in periods of imprisonment or**  
1164 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
1165 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
1166 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**

**1167 Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**  
**1168 to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**  
**1169 be determined for periods of commitment to the custody of the Department of Juvenile Justice.**