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**HOUSE BILL NO. 2113****AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Governor  
on March 31, 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, 9.1-128, 9.1-134, 17.1-293.1, 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 Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, relating to sealing 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, 9.1-128, 9.1-134, 17.1-293.1, 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 Article 1 of Chapter 2 of Title 17.1 a section numbered 17.1-205.1 and by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.17, 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.

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

"Department" means the Department of Criminal Justice Services.

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

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

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

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

117 "School security officer" means an individual who is employed by the local school board or a private  
118 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
119 investigating violations of the policies of the school board or the private or religious school, and  
120 detaining students violating the law or the policies of the school board or the private or religious school  
121 on school property, school buses, or at school-sponsored events and who is responsible solely for

ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

*"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.*

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

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

"Department" means the Department of Criminal Justice Services.

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

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible

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

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

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

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

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting

dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

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

**§ 9.1-128. Dissemination of criminal history record information; Board to adopt regulations and procedures.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history record information, including any records relating to an arrest, charge, or conviction, by which the criminal justice agencies of the Commonwealth and other persons, agencies, and employers can access such sealed records and shall ensure that access to and dissemination of such sealed records are made in accordance with the limitations on dissemination and use set forth in §§ 19.2-389, 19.2-389.3, and 19.2-392.13.

**§ 9.1-134. Sealing of criminal history record information.**

The Board shall adopt procedures reasonably designed to (i) ensure the prompt sealing of criminal history record information and the sealing or purging of criminal history record information, including any records relating to an arrest, charge, or conviction, when required by state or federal law, regulation, or court order; and (ii) permit opening of sealed information under conditions authorized by law.

**§ 17.1-205.1. Sealing Fee Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Sealing Fee Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds accruing to the Fund pursuant to §§ 19.2-392.12 and 19.2-392.16 and all funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be administered by the Executive Secretary of the Supreme Court, who shall use such funds solely to fund the costs for the compensation of court-appointed counsel under the provisions of subsection L of § 19.2-392.12. Expenditures from the Fund shall be limited by an appropriation in the general appropriation act. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon request of the Executive Secretary of the Supreme Court.

**§ 17.1-293.1. Online case information system; exceptions.**

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

B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary shall not make any offense that was ordered to be sealed available for online public viewing in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary.

C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing.

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

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

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

*B1. If the data from a case management system established under subsection B is not provided to the Executive Secretary of the Supreme Court through an interface, such data shall be provided to the Department of State Police through an interface for purposes of complying with §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The parameters of such interface shall be determined by the Department of State Police. The costs of designing, implementing, and maintaining such interface shall be the responsibility of the circuit court clerk.*

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

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

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

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

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

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

A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any violation committed in such officer's presence which offense is a violation of any county, city or town ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other

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

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

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

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

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

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

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

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

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

412 **§ 19.2-310.7. Expungement when DNA taken for a conviction.**

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

421 B. *Entry of a sealing order pursuant to § 19.2-392.7 or 19.2-392.12 shall not serve as grounds for*  
 422 *expungement of a person's DNA profile or any records in the data bank relating to that DNA profile.*

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

424 When any statute or ordinance prescribes a fine, unless it is otherwise expressly provided or would  
 425 be inconsistent with the manifest intention of the General Assembly, it shall be paid to the  
 426 Commonwealth if prescribed by a statute and recoverable by presentment, indictment, information, or  
 427 warrant and paid to the locality if prescribed by an ordinance and recoverable by warrant. *Whenever any*  
 428 *warrant or summons is issued pursuant to § 19.2-72 or 19.2-74 for an offense in violation of any*

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

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

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



judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

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

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

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

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

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

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

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

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

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

F. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any arrest, criminal charge, or conviction, include a reference to or

552 information concerning arrests, criminal charges, or convictions when the record relating to such arrest,  
553 criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an  
554 application may not be denied solely because of the applicant's refusal to disclose information  
555 concerning any such arrest, criminal charge, or conviction.

556 G. If any entity or person listed under subsection B, D, E, or F includes a question about a prior  
557 arrest, criminal charge, or conviction in an application for one or more of the purposes set forth in  
558 such subsections, such application shall include, or such entity or person shall provide, a notice to the  
559 applicant that an arrest, criminal charge, or conviction that is not open for public inspection pursuant  
560 to subsection A does not have to be disclosed in the application. Such notice need not be included on  
561 any application for one or more of the purposes set forth in subsection C.

562 H. The provisions of this section shall not prohibit the disclosure of any arrest, criminal charge, or  
563 conviction that is not open for public inspection pursuant to subsection A or any information from such  
564 records among law-enforcement officers and attorneys when such disclosures are made by such officers  
565 or attorneys while engaged in the performance of their duties for purposes solely relating to the  
566 disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the  
567 Commonwealth when related to the prosecution of a separate crime.

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

570 **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace,**  
571 **clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material**  
572 **submitted by other agencies.**

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

580 a. Treason;

581 b. Any felony;

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

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

585 e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
586 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,  
587 63.2-1509, or 63.2-1727.

588 e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
589 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,  
590 60.2-632, or 63.2-1509.

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

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

603 2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or  
604 § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if  
605 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
606 (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii)  
607 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal,  
608 the court shall remand the individual to the custody of the office of the chief law-enforcement officer of  
609 the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be  
610 the arresting officer, to ensure that such report is completed for each charge after a determination of  
611 guilt or acquittal by reason of insanity. The court shall require the officer to complete the report  
612 immediately following the person's conviction or acquittal, and the individual shall be discharged from  
613 custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him

committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

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

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

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

B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social security number and such other known information which the State Police or Federal Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or *capias* may transfer information electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias* to the local police department or sheriff's office. When criminal process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN and NCIC.

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

C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral, *nolle prosequi*, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A, including any action that may have resulted from an indictment, presentment or information, or any finding that the person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic report by the clerk of each circuit court and district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records Exchange of any finding that a person

charged on a summons is in violation of the terms or conditions of a suspended sentence or probation for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the person convicted and all aliases that he is known to have used, the date and locality of the conviction for which registration is required, his date of birth, social security number, and last known address, and specific reference to the offense for which he was convicted. No report of conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

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

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

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

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

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

I. As used in this section:

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

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

#### CHAPTER 23.2.

#### SEALING OF CRIMINAL HISTORY RECORD INFORMATION AND COURT RECORDS.

##### § 19.2-392.5. *Sealing defined; effect of sealing.*

A. As used in this chapter, unless the context requires a different meaning, "sealing" means to (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a

court order for one or more of the purposes set forth in § 19.2-392.13. "Sealing" may be required either by the issuance of a court order following the filing of a petition or automatically by operation of law under the processes set forth in this chapter.

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

C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. The court, except as provided in subsection B of § 19.2-392.14, and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. A clerk of any court and the Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the production of sealed court records, including electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect any cause of action accruing prior to the effective date of this section.

D. Except as otherwise provided in this section, upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred. Except as otherwise provided in this section, no person as to whom an order for sealing has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that person's denial or failure to disclose any information concerning an arrest, charge, or conviction that has been sealed.

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

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

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

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

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

5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134 allow the employer to access such sealed records.

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not relieve the person who was arrested, charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense that was ordered to be sealed.

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be (i) disclosed in any sentencing report; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not constitute a barrier crime as defined in § 19.2-392.02, except as otherwise required under federal law.

J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

798 **§ 19.2-392.6. Automatic sealing of offenses resulting in a deferred and dismissed disposition or**  
799 **conviction.**

800 A. If a person was charged with an offense in violation of § 4.1-305 or 18.2-250.1, and such offense  
801 was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense, including any records  
802 relating to such offense, shall be ordered to be automatically sealed in the manner set forth in  
803 § 19.2-392.7, subject to the provisions of subsections C and D.

804 B. If a person was convicted of a violation of any of the following sections, such conviction,  
805 including any records relating to such conviction, shall be ordered to be automatically sealed in the  
806 manner set forth in § 19.2-392.7, subject to the provisions of subsections C and D: § 4.1-305, 18.2-96,  
807 18.2-103, 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or § 18.2-250.1 or  
808 18.2-415.

809 C. Subject to the provisions of subsection D, any offense listed under subsection A and any  
810 conviction listed under subsection B shall be ordered to be automatically sealed if seven years have  
811 passed since the date of the dismissal or conviction and the person charged with or convicted of such  
812 offense has not been convicted of violating any law of the Commonwealth that requires a report to the  
813 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of  
814 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2,  
815 during that time period.

816 D. No offense listed under subsection A shall be automatically sealed if, on the date of the deferral  
817 or dismissal, the person was convicted of another offense that is not eligible for automatic sealing under  
818 subsection A or B. No conviction listed under subsection B shall be automatically sealed if, on the date  
819 of the conviction, the person was convicted of another offense that is not eligible for automatic sealing  
820 under subsection A or B.

821 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit  
822 court pursuant to the provisions of § 19.2-392.12.

823 **§ 19.2-392.7. Process for automatic sealing of offenses resulting in a conviction or deferred**  
824 **disposition.**

825 A. On at least a monthly basis, the Department of State Police shall determine which offenses in the  
826 Central Criminal Records Exchange meet the criteria for automatic sealing set forth in § 19.2-392.6.

827 B. After reviewing the offenses under subsection A, the Department of State Police shall provide an  
828 electronic list of all offenses that meet the criteria for automatic sealing set forth in § 19.2-392.6 to the  
829 Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case  
830 management system that interfaces with the Department of State Police under subsection B1 of  
831 § 17.1-502.

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

837 D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis  
838 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
839 enter such order directing that the offenses that meet the criteria for automatic sealing set forth in  
840 § 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall  
841 contain the names of the persons charged with or convicted of such offenses.

842 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
843 subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such order,  
844 the Department of State Police shall proceed as set forth in § 19.2-392.13.

845 F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for  
846 the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to  
847 § 9.1-128 and procedures adopted pursuant to § 9.1-134.

848 G. If an offense is automatically sealed contrary to law, the automatic sealing of that particular  
849 offense shall be voidable upon motion and notice made within two years of the entry of the order to  
850 automatically seal such offense.

851 **§ 19.2-392.8. Automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.**

852 A. If a person is charged with the commission of a misdemeanor offense, excluding traffic infractions  
853 under Title 46.2, and (i) the person is acquitted, (ii) a nolle prosequi is entered, or (iii) the charge is  
854 otherwise dismissed, excluding any charge that is deferred and dismissed after a finding of facts  
855 sufficient to justify a finding of guilt, the court disposing of the matter shall, at the time the acquittal,  
856 nolle prosequi, or dismissal is entered, order that the charge be automatically sealed under the process  
857 described in § 19.2-392.13, unless the attorney for the Commonwealth or any other person advises the  
858 court at the time the acquittal, nolle prosequi, or dismissal is entered that:

859 1. The charge is ancillary to another charge that resulted in a conviction or a finding of facts

sufficient to justify a finding of guilt;

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

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

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

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

6. The person charged with the offense objects to such automatic sealing.

B. If a person is charged with the commission of a felony offense and is acquitted, or the charge against him is dismissed with prejudice, he may immediately upon the acquittal or dismissal orally request that the records relating to the charge be sealed. Upon such request and with the concurrence of the attorney for the Commonwealth, the court shall order the automatic sealing of records relating to the arrest or charge under the process described in § 19.2-392.13.

C. If the court enters an order of sealing pursuant to subsection A or B, the court shall advise the person that the offense has been ordered to be automatically sealed.

D. Any denial by the court to enter a sealing order under subsection A or B shall be without prejudice, and the person may seek expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order under subsection A or B shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

E. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

F. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

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

A. If (i) a person is charged or arrested as a result of mistaken identity or (ii) a person's name or other identification is used without his consent or authorization by another person who is charged or arrested using such name or identification, and a nolle prosequi is entered or the charge is otherwise dismissed, the attorney for the Commonwealth or any other person requesting the nolle prosequi or dismissal shall notify the court of the mistaken identity or unauthorized use of identifying information at the time such request is made. Upon such notification, the court disposing of the matter shall, at the time the nolle prosequi or dismissal is entered, order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the person charged or arrested as a result of the mistaken identity or unauthorized use of identifying information objects to such automatic sealing.

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

C. Any denial by the court to enter a sealing order under subsection A shall be without prejudice. Entry of a sealing order or the denial of entry of a sealing order under subsection A shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2.

D. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

E. If an offense is automatically sealed contrary to law, the automatic sealing of that particular offense shall be voidable upon motion and notice made within two years of the entry of the order to automatically seal such offense.

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

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

B. Upon receipt of the electronic lists under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

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

A. On at least an annual basis, the Department of State Police shall review the Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions that resulted in



921 (i) an acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and  
922 dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record  
923 of such person contains no convictions for any criminal offense for a violation of any law of the  
924 Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of  
925 § 19.2-390 and where such criminal history record contains no arrests or charges for a violation of any  
926 law of the Commonwealth that requires a report to the Central Criminal Records Exchange under  
927 subsection A of § 19.2-390 in the past three years, excluding traffic infractions under Title 46.2. For  
928 purposes of this subsection, any offense on the person's criminal history record that has previously been  
929 ordered to be sealed shall not be deemed a conviction.

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

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

939 D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis  
940 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
941 enter such order directing that the offenses be automatically sealed under the process described in  
942 § 19.2-392.13. Such order shall contain the names of the persons charged with such offenses.

943 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
944 subsection D to the Department of State Police on at least an annual basis. Upon receipt of such order,  
945 the Department of State Police shall proceed as set forth in § 19.2-392.13.

946 F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for  
947 the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to  
948 § 9.1-128 and procedures adopted pursuant to § 9.1-134.

949 G. This section shall not be construed as prohibiting a person from seeking expungement in the  
950 circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section  
951 shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of  
952 § 19.2-392.2.

953 H. If an offense is automatically sealed contrary to law, the automatic sealing of that particular  
954 offense shall be voidable upon motion and notice made within two years of the entry of the order to  
955 automatically seal such offense.

956 I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such  
957 offense was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal  
958 for one or more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be  
959 voidable upon motion and notice made within two years of the entry of the order to automatically seal  
960 such offense.

961 **§ 19.2-392.12. Sealing of offenses resulting in a deferred and dismissed disposition or conviction**  
962 **by petition.**

963 A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2,  
964 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24, a person who has been convicted of or had a  
965 charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii) violation  
966 of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and  
967 punished as provided in § 18.2-95 may file a petition setting forth the relevant facts and requesting  
968 sealing of the criminal history record information and court records relating to the charge or  
969 conviction, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any  
970 other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within  
971 the past 20 years, or (c) not been convicted of any other felony within the past 10 years of his petition.

972 B. A person shall not be required to pay any fees or costs for filing a petition pursuant to this  
973 section if such person files a petition to proceed without the payment of fees and costs, and the court  
974 with which such person files his petition finds such person to be indigent pursuant to § 19.2-159.

975 C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be  
976 filed in the circuit court of the county or city in which the case was disposed of and shall contain,  
977 except when not reasonably available, the date of arrest, the name of the arresting agency, and the date  
978 of conviction. When this information is not reasonably available, the petition shall state the reason for  
979 such unavailability. The petition shall further state the charge or conviction to be sealed; the date of  
980 final disposition of the charge or conviction as set forth in the petition; the petitioner's date of birth,  
981 sex, race, and social security number, if available; and the full name used by the petitioner at the time  
982 of arrest or summons. A petitioner may only have two petitions granted pursuant to this section within



his lifetime.

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 21 days after it is delivered to him or received in the mail.

E. Upon receipt of the petition, the circuit court shall order that the attorney for the Commonwealth or a law-enforcement officer, as defined in § 9.1-101, provide the court with a sealed copy of the criminal history record of the petitioner. Upon completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal to the Supreme Court of Virginia.

F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the petition. The court shall enter an order requiring the sealing of the criminal history record information and court records, including electronic records, relating to the charge or conviction, only if the court finds that all criteria in subdivisions 1 through 4 are met, as follows:

1. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, or (iii) release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later, the person has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, for:

- a. Seven years for any misdemeanor offense; or
- b. Ten years for any felony offense;

2. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

3. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out of different sentencing events; and

4. The continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

G. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) stipulates in such written notice that the petitioner is eligible to have such offense sealed, and the continued existence and possible dissemination of information relating to the charge or conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner, the court may enter an order of sealing without conducting a hearing.

H. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases.

I. Upon the entry of an order of sealing, the clerk of the court shall cause an electronic copy of such order to be forwarded to the Department of State Police. Such electronic order shall contain the petitioner's full name, date of birth, sex, race, and social security number, if available, as well as the petitioner's state identification number from the criminal history record, the court case number of the charge or conviction to be sealed, if available, and the document control number, if available. Upon receipt of such electronic order, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge or conviction, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to § 17.1-205.1.

K. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth in this section or (ii) the court enters an order for the sealing of records contrary to law shall be voidable upon motion and notice made within two years of the entry of such order.

L. If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint

counsel to file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed \$120, as determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in § 17.1-205.1.

M. A petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is ineligible for the sealing of records under this section.

O. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge or conviction under this section when such charge or conviction is eligible for sealing under some other section of this chapter.

**§ 19.2-392.13. Disposition of records when an offense is sealed; permitted uses of sealed records.**

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12 shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission for its research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such

position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12; (xxiv) to determine a person's eligibility to be empaneled as a juror; and (xxv) to the person arrested, charged, or convicted of the offense that was sealed.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of court shall determine whether such record is open to public access and inspection. If the clerk of court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12, except to the Virginia Criminal Sentencing Commission for its research purposes. Such electronic records may be disseminated to the Virginia Criminal Sentencing Commission without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of court shall not be required to prohibit dissemination of that record. The Supreme Court, Court of Appeals, and any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed.

G. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor

1167 *Vehicles' records.*

1168 *H. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a*  
1169 *testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and*  
1170 *circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party*  
1171 *reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its*  
1172 *use.*

1173 *I. The provisions of this section shall not prohibit the disclosure of sealed criminal history record*  
1174 *information or any information from such records among law-enforcement officers and attorneys when*  
1175 *such disclosures are made by such officers or attorneys while engaged in the performance of their*  
1176 *duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment*  
1177 *evidence or between attorneys for the Commonwealth when related to the prosecution of a separate*  
1178 *crime.*

1179 **§ 19.2-392.14. Disclosure of sealed records; penalty.**

1180 *A. It is unlawful for any person having or acquiring access to sealed criminal history record*  
1181 *information or a court record, including any records relating to an arrest, charge, or conviction, that*  
1182 *was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, 19.2-392.11, or 19.2-392.12,*  
1183 *to disclose such record or any information from such record to another person, except in accordance*  
1184 *with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant*  
1185 *to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.*

1186 *B. A clerk of court shall not be in violation of this section if such clerk informs a person requesting*  
1187 *access to a sealed court record that such court record has been sealed and can only be accessed*  
1188 *pursuant to a court order.*

1189 *C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person who*  
1190 *maliciously and intentionally violates this section is guilty of a Class 6 felony.*

1191 **§ 19.2-392.15. Prohibited practices by employers, educational institutions, agencies, etc., of state**  
1192 **and local governments; penalty.**

1193 *A. Except as provided in subsection B, agencies, officials, and employees of state and local*  
1194 *governments, private employers that are not subject to federal laws or regulations in the hiring process,*  
1195 *and educational institutions shall not, in any application, interview, or otherwise, require an applicant*  
1196 *for employment or admission to disclose information concerning any arrest, charge, or conviction*  
1197 *against him that has been sealed. An applicant need not, in answer to any question concerning any*  
1198 *arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or*  
1199 *convictions that has been sealed.*

1200 *B. The provisions of subsection A shall not apply if:*

1201 *1. The person is applying for full-time employment or part-time employment with, or to be a*  
1202 *volunteer with, the State Police or a police department or sheriff's office that is a part of or*  
1203 *administered by the Commonwealth or any political subdivision thereof;*

1204 *2. This Code requires the employer to make such an inquiry;*

1205 *3. Federal law requires the employer to make such an inquiry;*

1206 *4. The position, or access to the premises in or upon which any part of the duties of such position is*  
1207 *performed or is to be performed, is subject to any requirement imposed in the interest of the national*  
1208 *security of the United States under any security program in effect pursuant to or administered under any*  
1209 *contract with, or statute or regulation of, the United States or any Executive Order of the President; or*

1210 *5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to*  
1211 *§ 9.1-134 allow the employer to access such sealed records.*

1212 *C. Agencies, officials, and employees of state and local governments shall not, in any application,*  
1213 *interview, or otherwise, require an applicant for a license, permit, registration, or governmental service*  
1214 *to disclose information concerning any arrest, charge, or conviction against him that has been sealed.*  
1215 *An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include*  
1216 *a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an*  
1217 *application may not be denied solely because of the applicant's refusal to disclose information*  
1218 *concerning any arrest, charge, or conviction against him that has been sealed.*

1219 *D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a*  
1220 *dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest,*  
1221 *charge, or conviction against him that has been sealed. An applicant need not, in answer to any*  
1222 *question concerning any arrest, charge, or conviction, include a reference to or information concerning*  
1223 *arrests, charges, or convictions that has been sealed. Such an application may not be denied solely*  
1224 *because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction*  
1225 *against him that has been sealed.*

1226 *E. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as*  
1227 *defined in § 38.2-100, require an applicant to disclose information concerning any arrest, charge, or*  
1228 *conviction against him that has been sealed. An applicant need not, in answer to any question*

concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

F. If any entity or person listed under subsections A, C, D, or E includes a question about a prior arrest, charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that information concerning an arrest, charge, or conviction that has been sealed does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection B.

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

**§ 19.2-392.16. Dissemination of criminal history records and traffic history records by business screening services.**

A. For the purposes of this section:

"Business screening service" means a person engaged in the business of collecting, assembling, evaluating, or disseminating Virginia criminal history records or traffic history records on individuals.

"Business screening service" does not include any government entity or the news media.

"Criminal history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.

"Delete" means that a criminal history record shall not be disseminated in any manner, except to any entity authorized to receive and use such information pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134, but may be retained in order to resolve any disputes relating to this section, the accuracy of the record consistent with the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

"Sealed record" means a Virginia criminal history record or a traffic history record that has been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12.

"Traffic history record" means any information collected by a business screening service on individuals containing any personal identifying information, photograph, or other identifiable descriptions pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal traffic infraction charges, and any disposition arising therefrom.

B. If a business screening service knows that a criminal history record or a traffic history record has been sealed, the business screening service shall promptly delete the record.

C. A business screening service shall register with the Department of State Police to electronically receive copies of orders of sealing provided to the Department of State Police pursuant to §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12. The Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, with a portion of such fee to be used to cover the cost of providing such records and the remainder of such fee to be deposited into the Sealing Fee Fund pursuant to § 17.1-205.1. The contract between the Department of State Police and the business screening service shall prohibit dissemination of the orders of sealing and shall require compliance by the business screening service with the provisions of subsections D, E, and F. The orders of sealing received by the business screening service shall remain confidential and shall not be disseminated or resold. The orders of sealing shall be used for the sole purpose of deleting criminal history records that have been sealed. The business screening service shall destroy the copies of the orders of sealing after deleting the information contained in such orders from sealed records. The Department of State Police shall require that the business screening service seeking access to the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. The Department of State Police shall further require that a business screening service acknowledge receipt of all electronic copies of orders of sealing provided by the Department of State Police. The Department of State Police shall maintain a public list within its website identifying the business screening services that are licensed to receive such records.

D. A business screening service that disseminates a criminal history record or a traffic history record on or after the effective date of this section shall include the date when the record was collected by the business screening service and a notice that the information may include records that have been sealed since that date.

E. A business screening service shall implement and follow reasonable procedures to assure that it does not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the completeness or accuracy of a criminal history record or traffic history record

maintained by a business screening service is disputed by the individual who is the subject of the record, the business screening service shall, without charge, investigate the disputed record. If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the official record, the business screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to have been sealed pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, or 19.2-392.12, the business screening service shall promptly delete the record. A business screening service may terminate an investigation of a disputed record if the business screening service reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a description of any information required to investigate the disputed record. The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the business screening service receives notice of the dispute from the subject of the record.

F. A business screening service shall implement procedures for individuals to submit a request to obtain their own criminal history record and traffic history record information maintained by the business screening service and any other information that may be sold to another entity by the business screening service regarding the individual.

G. A business screening service that violates this section is liable to the person who is the subject of the criminal history record or traffic history record for a penalty of \$1,000 or actual damages caused by the violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of any suit by an individual, the business screening service may make a cure offer in writing to the individual claiming to have suffered a loss as a result of a violation of this section. Such offer shall be in writing and include one or more things of value, including the payment of money. A cure offer shall be reasonably calculated to remedy a loss claimed by the individual, as well as any attorney fees or other fees, expenses, or other costs of any kind that such individual may incur in relation to such loss. No cure offer shall be admissible in any proceeding initiated under this section, unless the cure offer is delivered by the business screening service to the individual claiming loss or to any attorney representing such individual prior to the filing of the business screening service's initial responsive pleading in such proceeding. The business screening service shall not be liable for such individual's attorney fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorney fees and court costs, exceed the value of the cure offer.

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

I. A business screening service that disseminates criminal history records or traffic history records in the Commonwealth is deemed to have consented to service of process in the Commonwealth and to the jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the recovery of remedies under this section.

J. A business screening service that is a consumer reporting agency and that is in compliance with the applicable provisions of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to be in compliance with the comparable provisions of this section. A business screening service is subject to the state remedies under this section if its actions would violate this section and federal law.

K. Any business screening service or person who engages in the conduct of a business screening service, as set forth in this section, that fails to register with the Department of State Police as required by subsection C and that disseminates criminal history records or traffic history records in the Commonwealth may be subject to (i) suit by any person injured by such dissemination and (ii) enforcement actions by the Attorney General as set forth in subsection H.

**§ 19.2-392.17. Traffic infractions deemed sealed.**

A. Any record of a traffic infraction under Title 46.2 that is not punishable as a criminal offense

shall be deemed to be sealed after 11 years from the date of final disposition of the offense, unless such sealing is prohibited under federal or state law. No record of any such traffic infraction shall be disseminated, unless such dissemination is authorized pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the traffic infraction that was ordered to be sealed. Upon receipt of an order directing that a traffic infraction be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal a traffic infraction pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is subject to an administrative suspension order issued pursuant to Driver Improvement Program requirements under § 46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an accumulation of traffic infractions, and less than two years has passed since the date that the suspension order was complied with.

2. That the Department of State Police shall delete all records from the Central Criminal Records Exchange that were not required to be reported to the Central Criminal Records Exchange under subdivision A 1 of § 19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2021.

3. That the Attorney General, after consultation with the Committee on District Courts, the Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall amend the uniform summons described in § 46.2-388 of the Code of Virginia to reflect the amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by this act, by July 1, 2021.

4. That the provisions of §§ 9.1-101, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, 19.2-310.7, and 19.2-389.3 of the Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of the Code of Virginia, as created by this act, shall become effective on the earlier of (i) the first day of the fourth month following notification of the Chair of the Virginia Code Commission and the Chairs of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, have automated systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, or (ii) July 1, 2025.

5. That the Department of State Police shall first transmit the list required under subsection B of § 19.2-392.7 of the Code of Virginia, as created by this act, not later than the earlier of (i) the first day of the third month following the effective date of this act as provided in clause (i) of the fourth enactment of this act or (ii) October 1, 2025.

6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police, and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by this act, shall automate systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, not later than July 1, 2025.

7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for requesting and authorizing access to a sealed court record as set forth in section D of § 19.2-392.13 of the Code of Virginia, as created by this act, not later than July 1, 2025.

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

9. That the Virginia State Crime Commission shall consult with stakeholders to determine and recommend methods to educate the public on the sealing process and the effects of an order to



1413 seal an arrest, charge, or conviction and shall report on such recommended methods by December  
1414 15, 2021.

1415 10. That the Executive Secretary of the Supreme Court of Virginia, the Department of State  
1416 Police, and any circuit court clerk who maintains a case management system that interfaces with  
1417 the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as  
1418 amended by this act, shall each provide a report to the Virginia State Crime Commission on the  
1419 progress of implementing automated systems to exchange information as required by §§ 19.2-392.7,  
1420 19.2-392.10, 19.2-392.11, and 19.2-392.12 of the Code of Virginia, as created by this act, by  
1421 November 1, 2021, and by November 1 of each year thereafter until the automated systems have  
1422 been fully implemented.

1423 11. That the Department of State Police shall determine the feasibility and cost of implementing an  
1424 automated system to review out-of-state criminal history records and report to the Virginia State  
1425 Crime Commission by November 1, 2021, and by November 1 of each year thereafter until such  
1426 determination has been made.

1427 12. That the Virginia Court Clerks' Association shall determine the necessary staffing and  
1428 technology costs of implementing the provisions of this act and report to the Virginia State Crime  
1429 Commission by November 1, 2021, and by November 1 of each year thereafter until such  
1430 determination has been made.

1431 13. That the Department of State Police shall consult with the Department of Motor Vehicles in  
1432 determining the form and content of the electronic notice to be provided to the Department of  
1433 Motor Vehicles as required in subsection A of § 19.2-392.13 of the Code of Virginia, as created by  
1434 this act.

1435 14. That the Department of Criminal Justice Services shall develop regulations governing the  
1436 dissemination of sealed criminal history record information as directed by subsection D of  
1437 § 9.1-128 of the Code of Virginia, as amended by this act, and the sealing of criminal history  
1438 record information as directed by § 9.1-134 of the Code of Virginia, as amended by this act, in  
1439 accordance with § 19.2-392.13 of the Code of Virginia, as created by this act.

1440 15. That the Virginia State Crime Commission (the Commission) shall continue its current study  
1441 on expungement; that such study shall include (i) the interplay between the current expungement  
1442 statute and the sealing of criminal history record information and court records; (ii) the feasibility  
1443 of destroying or purging expunged or sealed criminal history record information and court  
1444 records; (iii) permissible uses of criminal history record information and court records; (iv) plea  
1445 agreements in relation to the expungement or sealing of criminal history record information and  
1446 court records; and (v) any other relevant matters that arise during the course of the study; and  
1447 that the Commission shall report its findings by December 15, 2021. Such report shall also include  
1448 a recommendation on how to create a review process for any proposed changes to the  
1449 expungement or sealing of criminal history record information and court records.

1450 16. That the Department of State Police shall develop a form contract for purposes of providing  
1451 information regarding sealed criminal history record information to business screening services  
1452 pursuant to § 19.2-392.16 of the Code of Virginia, as created by this act.

1453 17. That the provisions of this act may result in a net increase in periods of imprisonment or  
1454 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
1455 necessary appropriation cannot be determined for periods of imprisonment in state adult  
1456 correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the  
1457 Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant  
1458 to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot  
1459 be determined for periods of commitment to the custody of the Department of Juvenile Justice.