

VIRGINIA ACTS OF ASSEMBLY -- 2022 SESSION

CHAPTER 408

An Act to amend and reenact § 19.2-327.19 of the Code of Virginia, relating to writ of vacatur; victims of sex trafficking; payment of fees or costs.

[H 711]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-327.19 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-327.19. Relief under writ of vacatur.

A. Upon granting a writ of vacatur pursuant to subsection C of § 19.2-327.18, the circuit court shall provide the petitioner with a copy of the writ, and such copy shall be sufficient proof that the person named in the writ is no longer under any disability, disqualification, or other adverse consequence resulting from the vacated conviction or adjudication of delinquency.

B. If a writ of vacatur is granted, and no appeal is made to the Supreme Court, or the Supreme Court refuses or denies the Commonwealth's petition for appeal or upholds the decision of the circuit court, an order of expungement for the qualifying offense shall be entered by the circuit court. Upon entry of the order of expungement, the clerk of court shall cause a copy of the writ of vacatur, the order of expungement, and the complete set of petitioner's fingerprints to be forwarded to the Department of State Police, which shall expunge the qualifying offense.

C. The writ to vacate the qualifying offense shall not be expunged pursuant to subsection B and shall be maintained by the circuit court. Access to the writ may be provided only upon court order. Any person seeking access to the writ may file a written motion setting forth why such access is needed. The court shall issue an order to disclose the writ upon the written motion of the petitioner named in the writ. The court may issue an order to disclose the writ if it finds that such disclosure best serves the interests of justice.

D. Costs shall be as provided in § 17.1-275 but shall not be recoverable against the Commonwealth. *A petitioner shall not be required to pay any fees or costs for filing a petition pursuant to this chapter if the petitioner is found to be unable to pay fees or costs pursuant to § 17.1-606.* If the circuit court enters a writ of vacatur, the clerk of the court shall refund to the petitioner such costs paid by the petitioner.

E. If the court enters a writ of vacatur, the petitioner shall be entitled to a refund of all fines, costs, forfeitures, and penalties paid in relation to the qualifying offense that was vacated. If the clerk of the court where the conviction was entered is in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, the petitioner shall be entitled to a refund of such amount. If the clerk of the court where the conviction was entered is no longer in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, a refund shall be provided only upon a showing by the petitioner of the amount of fines, costs, forfeitures, and penalties paid.