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SENATE BILL NO. 334

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 23, 2024)

(Patron Prior to Substitute—Senator Salim)

A BILL to amend the Code of Virginia by adding a section numbered 19.2-254.01, relating to plea agreements and court orders; prohibited provisions.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-254.01 as follows:

§ 19.2-254.01. Plea agreements and court orders; prohibited provisions.

A. No plea agreement or court order executed or entered on or after July 1, 2024, shall contain any provision that purports to waive, release, or extinguish a defendant's (i) rights under the Fourth Amendment to the United States Constitution and Article I, Section 10 of the Constitution of Virginia; (ii) right to file a petition requesting expungement of the police records and the court records; or (iii) right to have criminal history record information and court records sealed.

B. Any provision of a plea agreement or court order that is prohibited by subsection A is void and unenforceable as against public policy.

C. The prohibition against waiving, releasing, or extinguishing rights under the Fourth Amendment under clause (i) of subsection A shall not apply to any plea agreement, written agreement, or court order that may be entered into by a defendant and the Commonwealth (i) as a condition for participation in a specialty docket as authorized pursuant to Rule 1:25 of the Rules of the Supreme Court of Virginia or (ii) in a case involving a sexual offense in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 where the victim is under 18 years of age.

D. Any such waiver, release, or extinguishment of rights under the Fourth Amendment permissible pursuant to subsection C shall be no longer than the period of supervised probation or post-release supervision imposed against the defendant. If the defendant is not placed on supervised probation or post-release supervision, such waiver, release, or extinguishment of rights under the Fourth Amendment shall be no longer than the period of suspension of sentence or post-release incarceration imposed against such defendant.