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SENATE BILL NO. 956

Offered January 8, 2025

Prefiled January 6, 2025

A BILL to amend and reenact § 19.2-388 of the Code of Virginia and to repeal the second enactment of Chapter 421 of the Acts of Assembly of 2021, Special Session I, relating to Department of State Police; Central Criminal Records Exchange; removal and repeal of certain reporting requirements.

Patron—Stuart

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-388 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-388. Duties and authority of Exchange.

A. It shall be the duty of the Central Criminal Records Exchange to receive, classify, and file criminal history record information as defined in § 9.1-101 and other records required to be reported to it by §§ 16.1-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local law-enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile and domestic relations district courts; and to corrections and penal officials, forms that shall be used for the making of such reports.

B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records.

C. The Exchange shall submit periodic reports to the Office of the Executive Secretary of the Supreme Court of Virginia, the clerk of each circuit court and district court, attorneys for the Commonwealth, and law-enforcement agencies containing a list of offenses with unapplied criminal history record information. Reports to the Office of the Executive Secretary of the Supreme Court of Virginia shall be quarterly and shall include all such offenses within the Commonwealth identified by jurisdiction and by court. Reports to the clerk of each circuit court and district court shall be quarterly and shall include only such offenses that were submitted by the respective clerk of court. Reports to attorneys for the Commonwealth shall be quarterly and shall include only such offenses that were submitted by law-enforcement agencies and courts in the county or city served by the respective attorney for the Commonwealth. Reports to law-enforcement agencies shall be monthly and shall include only such offenses for which the respective law-enforcement agency executed the arrest or issued the summons. For each offense, the report shall include, if known, the name and any other identifying information of the defendant, any identifying court case information, the date of submission to the Exchange, and the reason the offense could not be applied to the criminal history record.

D. The Exchange shall review offenses containing unapplied criminal history record information and shall make reasonable efforts to ensure that such information, including any offense of which the Exchange is notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145, is applied to criminal history records. The Exchange may request and shall receive from the clerk of each circuit court and district court, attorneys for the Commonwealth, law-enforcement agencies, the Department of Corrections, the Department of Forensic Science, and local probation and community corrections agencies cooperation and assistance to obtain positive identification or to reconcile any inconsistencies, errors, or omissions within such unapplied criminal history record information.

E. The Exchange shall submit a report to the Governor and General Assembly on or before November 1 of each year on the status of unapplied criminal history record information and any updates to fingerprinting policies and procedures. The report shall include the following, if known: (i) the total number of offenses submitted to the Exchange, identified by the year of the offense and the year the charge was filed for such offense, that contain unapplied criminal history record information and cannot be applied to criminal history records; (ii) the number of such offenses submitted to the Exchange without fingerprints or positive identification and the law-enforcement agencies that submitted those offenses; (iii) the number of such offenses submitted to the Exchange with an inconsistency, error, or omission and, for those offenses, the jurisdiction from which the offense was submitted; and (iv) efforts made by the Exchange to ensure that unapplied criminal history record information is applied to criminal history records, including any offenses of which the Exchange was notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145.

2. That the second enactment of Chapter 421 of the Acts of Assembly of 2021, Special Session I, is repealed.