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SENATE BILL NO. 1466**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance and Appropriations
on January 29, 2025)

(Patron Prior to Substitute—Senator Surovell)

A *BILL to amend and reenact §§ 2.2-3706 and 2.2-3706.1 and §§ 9.1-101, 9.1-128, 17.1-293.1, 17.1-502, 19.2-310.7, 19.2-392.2, 19.2-392.5 through 19.2-392.8, 19.2-392.11 through 19.2-392.14, 19.2-392.16, and 19.2-392.17, as they shall become effective, of the Code of Virginia and to amend and reenact the fourth, fifth, sixth, and seventh enactments of Chapter 524 and the fourth, fifth, sixth, and seventh enactments of Chapter 542 of the Acts of Assembly of 2021, Special Session I, and the third, fourth, and fifth enactments of Chapter 554 and the third, fourth, and fifth enactments of Chapter 555 of the Acts of Assembly of 2023; to amend the Code of Virginia by adding sections numbered 19.2-392.6:1 and 19.2-392.12:1; and to repeal § 17.1-205.1 of the Code of Virginia, relating to criminal records; expungement and sealing of records.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3706 and 2.2-3706.1 and §§ 9.1-101, 9.1-128, 17.1-293.1, 17.1-502, 19.2-310.7, 19.2-392.2, 19.2-392.5 through 19.2-392.8, 19.2-392.11 through 19.2-392.14, 19.2-392.16, and 19.2-392.17, as they shall become effective, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 19.2-392.6:1 and 19.2-392.12:1 as follows:

§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.

A. Records required to be released. All public bodies engaged in criminal law-enforcement activities shall provide the following records when requested in accordance with the provisions of this chapter:

1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation;

2. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; and

3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.

B. Discretionary releases. The following records are excluded from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance with § 2.2-3706.1;

2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

4. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the

60 performance of their official duties;

61 8. Those portions of any records containing information related to undercover operations or protective
62 details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective
63 details. Nothing in this subdivision shall operate to allow the withholding of information concerning the
64 overall costs or expenses associated with undercover operations or protective details;

65 9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii)
66 administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement
67 agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made
68 confidential by law;

69 10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures.
70 However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under
71 § 19.2-11.2; and

72 11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of
73 State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state,
74 local, and regional officials, except to the extent that information is required to be posted on the Internet
75 pursuant to § 9.1-913.

76 C. Prohibited releases. *The following records shall not be disclosed under the provisions of this chapter:*

77 1. The identity of any individual providing information about a crime or criminal activity under a promise
78 of anonymity ~~shall not be disclosed~~;

79 2. *Any record that has been expunged pursuant to § 19.2-392.2, unless dissemination is authorized*
80 *pursuant to § 19.2-392.3 or 19.2-392.3:1; and*

81 3. *Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10,*
82 *19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-392.13*
83 *and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to §*
84 *9.1-134.*

85 D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire
86 protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls
87 for service or other communications to an emergency 911 system or any other equivalent reporting system
88 may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials
89 that contain identifying information of a personal, medical, or financial nature where the release of such
90 information would jeopardize the safety or privacy of any person. Access to personnel records of persons
91 employed by a public body engaged in emergency medical services or fire protection services, a
92 law-enforcement agency, or an emergency 911 system or any other equivalent reporting system shall be
93 governed by the provisions of subdivision B 9 and subdivision 1 of § 2.2-3705.1, as applicable.

94 E. Records of any call for service or other communication to an emergency 911 system or communicated
95 with any other equivalent reporting system shall be subject to the provisions of this chapter.

96 F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this
97 section and other provisions of law, this section shall control.

98 **§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and certain**
99 **criminal investigative files; limitations.**

100 A. For purposes of this section:

101 "Criminal investigative files" means any documents and information, including complaints, court orders,
102 memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence,
103 relating to a criminal investigation or prosecution, other than criminal incident information subject to
104 disclosure in accordance with subsection B.

105 "Family representative" means the decedent's personal representative or, if no personal representative as
106 set forth in § 64.2-100 has qualified, the decedent's next of kin in order of intestate succession as set forth in §
107 64.2-200.

108 "Immediate family members" means the decedent's family representative, spouse, child, sibling, parent,
109 grandparent, or grandchild. "Immediate family members" include a stepparent, stepchild, stepsibling, and
110 adoptive relationships.

111 "Ongoing" refers to a case in which the prosecution has not been finally adjudicated, the investigation
112 continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the
113 premature release of evidence.

114 B. All public bodies engaged in criminal law-enforcement activities shall provide records and information
115 when requested in accordance with the provisions of this chapter regarding criminal incident information
116 relating to felony offenses contained in any report, notes, electronic communication, or other document,
117 including filings through an incident-based reporting system, which shall include:

118 1. A general description of the criminal activity reported;

119 2. The date and time the alleged crime was committed;

120 3. The general location where the alleged crime was committed;

121 4. The identity of the investigating officer or other point of contact; and

122 5. A description of any injuries suffered or property damaged or stolen.
 123 A verbal response as agreed to by the requester and the public body is sufficient to satisfy the
 124 requirements of this subsection.

125 C. Criminal investigative files relating to an ongoing criminal investigation or proceeding are excluded
 126 from the mandatory disclosure provisions of this chapter, but may be disclosed by the custodian, in his
 127 discretion, except as provided in subsection E or where such disclosure is prohibited by law.

128 D. Criminal investigative files relating to a criminal investigation or proceeding that is not ongoing are
 129 excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian, in
 130 his discretion, except as provided in subsection E; however, such records shall be disclosed, by request, to the
 131 following persons, regardless of whether any such person is a citizen of the Commonwealth:

132 1. The victim;

133 2. The victim's immediate family members, if the victim is deceased and the immediate family member to
 134 which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or
 135 proceeding;

136 3. The parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person
 137 of interest or a suspect in the criminal investigation or proceeding;

138 4. An attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence
 139 pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction
 140 proceeding or pardon; and

141 5. For the sole purpose of inspection at the location where such records are maintained by the public body
 142 that is the custodian of the records, (i) an attorney or his agent when such attorney is considering representing
 143 a petitioner in a post-conviction proceeding or pardon, (ii) an attorney who provides a sworn declaration that
 144 the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a
 145 good faith basis to believe that the records being requested are material to such action, or (iii) a person who is
 146 proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter
 147 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon,
 148 who provides a sworn affidavit that the records being requested are material to such action.

149 An attorney or his agent who is in receipt of criminal investigative files or has inspected criminal
 150 investigative files pursuant to subdivision 4 or 5 shall not release such criminal investigative files or any
 151 information contained therein except as necessary to provide adequate legal advice or representation to a
 152 person whom the attorney either represents or is considering representing in a post-conviction proceeding or
 153 pardon or represents in a civil or criminal action.

154 An attorney who is in receipt of criminal investigative files pursuant to subdivision 4 shall return the
 155 criminal investigative files to the public body that is the custodian of such records within 90 days of a final
 156 determination of any writ of habeas corpus, writ of actual innocence, or other federal or state post-conviction
 157 proceeding or pardon or, if no petition for such writ or post-conviction proceeding or pardon was filed, within
 158 six months of the attorney's receipt of the records.

159 No disclosure for the purpose of inspection pursuant to clause (iii) of subdivision 5 shall be made unless
 160 an appropriate circuit court has reviewed the affidavit provided and determined the records requested are
 161 material to the action being pursued. The court shall order the person not to disclose or otherwise release any
 162 information contained in a criminal investigative file except as necessary for the pending action and may
 163 include other conditions as appropriate.

164 E. The provisions of subsections C and D shall not apply if the release of such information:

165 1. Would interfere with a particular ongoing criminal investigation or proceeding in a particularly
 166 identifiable manner;

167 2. Would deprive a person of a right to a fair trial or an impartial adjudication;

168 3. Would constitute an unwarranted invasion of personal privacy;

169 4. Would disclose (i) the identity of a confidential source or (ii) in the case of a record compiled by a law-
 170 enforcement agency in the course of a criminal investigation, information furnished only by a confidential
 171 source;

172 5. Would disclose law-enforcement investigative techniques and procedures, if such disclosure could
 173 reasonably be expected to risk circumvention of the law; or

174 6. Would endanger the life or physical safety of any individual.

175 Nothing in this subsection shall be construed to authorize the withholding of those portions of such
 176 information that are unlikely to cause any effect listed herein.

177 F. Notwithstanding the provisions of subsection C or D, no criminal investigative file or portion thereof,
 178 except disclosure of records under subdivision D 4 or clause (i) of subdivision D 5, shall be disclosed to any
 179 requester pursuant to this section, unless the public body has made reasonable efforts to notify (i) the victim;
 180 (ii) the victim's immediate family members, if the victim is deceased and the immediate family member to be
 181 notified is not a person of interest or a suspect in the criminal investigation or proceeding; or (iii) the victim's
 182 parent or guardian, if the victim is a minor and the parent or guardian to be notified is not a person of interest

183 or a suspect in the criminal investigation or proceeding.

184 Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to
 185 this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a
 186 petition for an injunction to prevent the disclosure of the records as set forth in § 8.01-622.2. The public body
 187 shall not respond to the request until at least 14 days has passed from the time notice was received by an
 188 individual listed in clause (i), (ii), or (iii) unless such individual has waived the 14-day period or at the
 189 request of the victim's insurance company or attorney. The period within which the public body shall respond
 190 to the underlying request pursuant to § 2.2-3704 shall be tolled pending the notification process and any
 191 subsequent disposition by the court.

192 G. No photographic, audio, video, or other record depicting a victim or allowing for a victim to be readily
 193 identified shall be released pursuant to subsection C or D to anyone except (i) the victim; (ii) the victim's
 194 family representative, if the victim is deceased and the family representative to which the records are to be
 195 disclosed is not a person of interest or a suspect in the criminal investigation or proceeding; (iii) the victim's
 196 parent or guardian, if the victim is a minor and the parent or guardian is not a person of interest or a suspect
 197 in the criminal investigation or proceeding; or (iv) the victim's insurance company or attorney.

198 H. Nothing in this section shall prohibit the disclosure of current anonymized, aggregate location and
 199 demographic data collected pursuant to § 52-30.2 or similar data documenting law-enforcement officer
 200 encounters with members of the public.

201 I. In the event of a conflict between this section as it relates to requests made under this section and other
 202 provisions of law, the other provisions of law, ~~including court sealing orders~~, that restrict disclosure of
 203 criminal investigative files shall control.

204 *J. The following records shall not be released under the provisions of this section:*

205 *1. Any record that has been expunged pursuant to § 19.2-392.2, unless dissemination is authorized*
 206 *pursuant to § 19.2-392.3 or 19.2-392.3:1; and*

207 *2. Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10,*
 208 *19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-392.13*
 209 *and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to §*
 210 *9.1-134.*

211 **§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.**

212 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a
 213 different meaning:

214 "Administration of criminal justice" means performance of any activity directly involving the detection,
 215 apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional
 216 supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and
 217 dissemination of criminal history record information.

218 "Board" means the Criminal Justice Services Board.

219 "Conviction data" means information in the custody of any criminal justice agency relating to a judgment
 220 of conviction, and the consequences arising therefrom, in any court.

221 "Correctional status information" means records and data concerning each condition of a convicted
 222 person's custodial status, including probation, confinement, work release, study release, escape, or
 223 termination of custody through expiration of sentence, parole, pardon, or court decision.

224 "Criminal history record information" means records and data collected by criminal justice agencies on
 225 adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments,
 226 informations, or other formal charges, and any disposition arising therefrom. The term shall not include
 227 juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal
 228 justice intelligence information, criminal justice investigative information, or correctional status information.

229 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as
 230 its principal function performs the administration of criminal justice and any other agency or subunit thereof
 231 which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of
 232 Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of
 233 its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12
 234 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special
 235 conservators to meet compulsory training standards established by the Criminal Justice Services Board and
 236 submits reports of compliance with the training standards and (b) the private corporation or agency complies
 237 with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or
 238 agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of
 239 the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the
 240 purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§
 241 37.2-900 et seq.).

242 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to §
 243 18.2-271.2.

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

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

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

247 "Criminal justice information system" means a system including the equipment, facilities, procedures,
248 agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of
249 criminal history record information. The operations of the system may be performed manually or by using
250 electronic computers or other automated data processing equipment.

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

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

255 "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's
256 office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any
257 full-time or part-time employee of a private police department, and who is responsible for the prevention and
258 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall
259 include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent
260 appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation
261 police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife
262 Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi)
263 conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115
264 ; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed
265 pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix)
266 campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of
267 the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
268 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with
269 internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of §
270 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; (xii) private police
271 officer employed by a private police department; or (xiii) person designated as a sworn unit investigator by
272 the Attorney General pursuant to subsection A of § 32.1-320.1. Part-time employees are those compensated
273 officers who are not full-time employees as defined by the employing police department, sheriff's office, or
274 private police department.

275 "Private police department" means any police department, other than a department that employs police
276 agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized
277 by statute or an act of assembly to establish a private police department or such entity's successor in interest,
278 provided it complies with the requirements set forth herein. No entity is authorized to operate a private police
279 department or represent that it is a private police department unless such entity has been authorized by statute
280 or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant
281 to this section, provided it complies with the requirements set forth herein. The authority of a private police
282 department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the
283 local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority,
284 duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided
285 in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer
286 shall enter into a memorandum of understanding with the private police department that addresses the duties
287 and responsibilities of the private police department and the chief law-enforcement officer in the conduct of
288 criminal investigations. Private police departments and private police officers shall be subject to and comply
289 with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
290 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
291 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
292 applicable to private police departments. Any person employed as a private police officer pursuant to this
293 section shall meet all requirements, including the minimum compulsory training requirements, for
294 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the
295 Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law
296 enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law
297 Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the
298 Commonwealth or any locality. An authorized private police department may use the word "police" to
299 describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§
300 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013,
301 that was not otherwise established by statute or an act of assembly and whose status as a private police
302 department was recognized by the Department at that time is hereby validated and may continue to operate as
303 a private police department as may such entity's successor in interest, provided it complies with the
304 requirements set forth herein.

305 "School resource officer" means a certified law-enforcement officer hired by the local law-enforcement

306 agency to provide law-enforcement and security services to Virginia public elementary and secondary
307 schools.

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

314 "Sealing" means to *prohibit public access to records relating to an arrest, charge, or conviction,*
315 *including any ancillary matter ordered to be sealed, in the possession of* (i) ~~restricting dissemination of~~
316 ~~criminal history record information contained in the Central Criminal Records Exchange; including any~~
317 ~~records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13~~
318 ~~and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant~~
319 ~~to § 9.1-134 and;~~ (ii) ~~prohibiting dissemination of any court records related to an arrest, charge, or conviction;~~
320 ~~;~~ (iii) *any police department, sheriff's office, or campus police department; or (iv) the Department of Motor*
321 *Vehicles unless such dissemination is authorized by a court order for one or more of the purposes set forth in*
322 *§ 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures*
323 *adopted pursuant to § 9.1-134.*

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

329 **§ 9.1-128. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Dissemination of**
330 **criminal history record information; Board to adopt regulations and procedures.**

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

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

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

339 D. The Board shall adopt regulations and procedures for the dissemination of sealed criminal history
340 record information, including any (i) records relating to an arrest, charge, or conviction *and (ii) ancillary*
341 *matter ordered to be sealed,* by which the criminal justice agencies of the Commonwealth and other persons,
342 agencies, and employers can access such sealed records and shall ensure that access to and dissemination of
343 such sealed records are made in accordance with the limitations on dissemination and use set forth in §§
344 19.2-389; and 19.2-392.13.

345 **§ 17.1-293.1. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524, 542) Online case**
346 **information system; exceptions.**

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

352 B. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12, *or*
353 *19.2-392.12:1,* the Executive Secretary shall not make any offense that was ordered to be sealed available for
354 online public viewing in an appellate court, circuit court, or district court case management system
355 maintained by the Executive Secretary. *Any offense that was sealed without a court order pursuant to §*
356 *19.2-392.6:1 or 19.2-392.17 shall not be available for online public viewing in any such system.*

357 C. Upon entry of a sealing order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12, *or*
358 *19.2-392.12:1,* any circuit court clerk who maintains a viewable online case management or case information
359 system shall not make any offense that was ordered to be sealed available for online public viewing. *Any*
360 *offense that was sealed without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17 shall not be*
361 *available for online public viewing in any such system.*

362 **§ 17.1-502. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Administrator**
363 **of circuit court system.**

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

367 B. Any circuit court clerk may establish and maintain his own case management system, financial

368 management system, or other independent technology using automation or technology improvements
 369 provided by a private vendor or the locality. Any data from the clerk's independent system may be provided
 370 directly from such clerk to designated state agencies. The data from the clerk's independent system may also
 371 be provided to designated state agencies through an interface with the technology systems operated by the
 372 Executive Secretary.

373 B1. If the data from a case management system established under subsection B is not provided to the
 374 Executive Secretary of the Supreme Court through an interface, such data shall be provided to the
 375 Department of State Police through an interface for purposes of complying with §§ 19.2-392.7, 19.2-392.8,
 376 19.2-392.10, 19.2-392.11, ~~and~~ 19.2-392.12, *and 19.2-392.12:1*. The parameters of such interface shall be
 377 determined by the Department of State Police. The costs of designing, implementing, and maintaining such
 378 interface shall be the responsibility of the circuit court clerk.

379 C. The Executive Secretary shall provide an electronic interface with his case management system,
 380 financial management system, or other technology improvements upon written request of any circuit court
 381 clerk. The circuit court clerk and the clerk's designated application service provider shall comply with the
 382 security and data standards established by the Executive Secretary for any such electronic interface. The
 383 Executive Secretary shall establish security and data standards for such electronic interfaces on or before June
 384 30, 2013, and such standards shall be consistent with the policies, standards, and guidelines established
 385 pursuant to § 2.2-2009.

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

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

395 **§ 19.2-310.7. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Expungement**
 396 **when DNA taken for a conviction.**

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

405 B. Entry of a sealing order pursuant to § 19.2-392.7 ~~or~~, 19.2-392.12, *or 19.2-392.12:1* shall not serve as
 406 grounds for expungement of a person's DNA profile or any records in the data bank relating to that DNA
 407 profile.

408 **§ 19.2-392.2. (Effective pursuant to Acts 2023, cc. 554 and 555, cl. 4) Expungement of police and**
 409 **court records.**

410 A. If a person is charged with the commission of a crime, a civil offense, or any offense defined in Title
 411 18.2, and

412 1. Is acquitted, or

413 2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and
 414 satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting
 415 expungement of the police records and the court records relating to the charge. *A person shall not be required*
 416 *to pay any court fees or costs for filing a petition under this subsection.*

417 B. If any person whose name or other identification has been used without his consent or authorization by
 418 another person who has been charged or arrested using such name or identification, he may file a petition
 419 with the court disposing of the charge for relief pursuant to this section. ~~Such~~ A person shall not be required
 420 to pay any *court fees or costs* for the filing ~~of~~ a petition under this subsection. A petition filed under this
 421 subsection shall include one complete set of the petitioner's fingerprints obtained from a law-enforcement
 422 agency.

423 C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed
 424 in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise
 425 dismissed and shall contain, except when not reasonably available, the date of arrest and the name of the
 426 arresting agency. When this information is not reasonably available, the petition shall state the reason for
 427 such unavailability. The petition shall further state the specific criminal charge or civil offense to be
 428 expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth,

429 and the full name used by the petitioner at the time of arrest. If the petition is filed under this subsection, the
430 petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of
431 the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon
432 receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the
433 circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to
434 the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.

435 D. A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in
436 which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition
437 or may give written notice to the court that he does not object to the petition within 21 days after it is served
438 on him.

439 E. If the petition is filed under subsection B, the petitioner shall obtain from a law-enforcement agency
440 one complete set of the petitioner's fingerprints and shall provide that agency with a copy of the petition for
441 expungement. The law-enforcement agency shall submit the set of fingerprints to the CCRE with a copy of
442 the petition for expungement attached. The CCRE shall forward under seal to the court a copy of the
443 petitioner's criminal history and the set of fingerprints. Upon completion of the hearing, the court shall return
444 the fingerprint card to the petitioner. If no hearing was conducted, upon the entry of an order of expungement
445 or an order denying the petition for expungement, the court shall cause the fingerprint card to be destroyed
446 unless, within 30 days of the date of the entry of the order, the petitioner requests the return of the fingerprint
447 card in person from the clerk of the court or provides the clerk of the court a self-addressed, stamped
448 envelope for the return of the fingerprint card.

449 F. After receiving the criminal history record information, the court shall conduct a hearing on the
450 petition. If the court finds that the continued existence and possible dissemination of information relating to
451 the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the
452 petitioner, it shall enter an order requiring the expungement of the police and court records, including
453 electronic records, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has
454 no prior criminal record and the arrest was for a misdemeanor violation or the charge was for a civil offense,
455 the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to
456 expungement of the police and court records relating to the charge, and the court shall enter an order of
457 expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i)
458 gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when
459 the charge to be expunged is a felony, stipulates in such written notice that the continued existence and
460 possible dissemination of information relating to the arrest of the petitioner causes or may cause
461 circumstances which constitute a manifest injustice to the petitioner, the court may enter an order of
462 expungement without conducting a hearing.

463 G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the
464 decision of the court may appeal, as provided by law in civil cases.

465 H. Notwithstanding any other provision of this section, when the charge is dismissed because the court
466 finds that the person arrested or charged is not the person named in the summons, warrant, indictment or
467 presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged,
468 enter an order requiring expungement of the police and court records relating to the charge. Such order shall
469 contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be
470 accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such
471 order, it shall be treated as provided in subsection K.

472 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402 of an
473 absolute pardon for the commission of a crime that a person did not commit, the court shall enter an order
474 requiring expungement of the police and court records relating to the charge and conviction. Such order shall
475 contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order,
476 it shall be treated as provided in subsection K.

477 J. Upon receiving a copy of a writ vacating a conviction pursuant to § 19.2-327.5 or 19.2-327.13, the court
478 shall enter an order requiring expungement of the police and court records relating to the charge and
479 conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection.
480 Upon the entry of the order, it shall be treated as provided in subsection K.

481 K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be
482 forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant
483 to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be
484 effected.

485 L. ~~Costs shall be as provided by § 17.1-275, but shall not be recoverable against the Commonwealth. If
486 the court enters an order of expungement, the clerk of the court shall refund to the petitioner such costs paid
487 by the petitioner.~~

488 M. Any order entered where (i) the court or parties failed to strictly comply with the procedures set forth
489 in this section or (ii) the court enters an order of expungement contrary to law, shall be voidable upon motion

490 and notice made within three years of the entry of such order.

491 ~~N. M.~~ A petition filed under this section and any responsive pleadings filed by the attorney for the
 492 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order
 493 to expunge issued pursuant to this section shall be sealed and may only be disseminated for the purposes set
 494 forth in § 19.2-392.3 pursuant to regulations and procedures adopted pursuant to § 9.1-128 and procedures
 495 adopted pursuant to § 9.1-134.

496 **§ 19.2-392.5. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing**
 497 **defined; effect of sealing.**

498 A. As used in this chapter, unless the context requires a different meaning, "~~sealing~~":

499 "*Ancillary matter*" means any (i) violation or alleged violation of the terms and conditions of a suspended
 500 sentence, probation, or parole; (ii) violation or alleged violation of contempt of court; (iii) charge or
 501 conviction for failure to appear; or (iv) appeal from a bail, bond, or recognizance order.

502 "*Records related to an arrest, charge, or conviction*" means (i) the record of any specific arrest, charge,
 503 or conviction that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10,
 504 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17 or (ii) any ancillary matter that was sealed
 505 pursuant to § 19.2-392.12 or 19.2-392.12:1.

506 "*Sealing*" means to prohibit public access to records relating to an arrest, charge, or conviction,
 507 including any ancillary matter ordered to be sealed, in the possession of (i) ~~restricting dissemination of~~
 508 ~~criminal history record information contained in~~ the Central Criminal Records Exchange; ~~including any~~
 509 ~~records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13~~
 510 ~~and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant~~
 511 ~~to § 9.1-134 and;~~ (ii) ~~prohibiting dissemination of any court records related to an arrest, charge, or conviction;~~
 512 (iii) any police department, sheriff's office, or campus police department; or (iv) the Department of Motor
 513 Vehicles unless such dissemination is authorized by a court order for one or more of the purposes set forth in
 514 § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures
 515 adopted pursuant to § 9.1-134. "Sealing" may be required either by the issuance of a court order following
 516 the filing of a petition or automatically by operation of law under the processes set forth in this chapter. "
 517 Sealing" does not prohibit or limit dissemination of records within or between any department, division,
 518 board, bureau, commission, branch, authority or other agency created by the Commonwealth, or to which the
 519 Commonwealth is a party or any political subdivision thereof, or with any federal agency, for the purpose of
 520 administering any duties or functions required by state or federal law.

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

523 C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated only for
 524 purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and
 525 procedures adopted pursuant to § 9.1-134. ~~The court, except as provided in subsection B of § 19.2-392.14,~~
 526 ~~and any~~ Any law-enforcement agency shall reply to any inquiry that no record exists with respect to an arrest,
 527 charge, or conviction that has been sealed, unless such information is permitted to be disclosed pursuant to §
 528 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted
 529 pursuant to § 9.1-134. *As provided in subsection B of § 19.2-392.14, a clerk of any court shall reply to any*
 530 *inquiry requesting access to a sealed court record that such court record has been sealed and can only be*
 531 *accessed pursuant to a court order.* A clerk of any court and the Executive Secretary of the Supreme Court
 532 shall be immune from any cause of action arising from the production of sealed court records, including
 533 electronic records, absent gross negligence or willful misconduct. This subsection shall not be construed to
 534 limit, withdraw, or overturn any defense or immunity already existing in statutory or common law or to affect
 535 any cause of action accruing prior to the effective date of this section.

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

543 E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8,
 544 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1, or the sealing of an offense without the entry of an order
 545 pursuant to § 19.2-392.6:1 or 19.2-392.17, may not deny or fail to disclose information to any employer or
 546 prospective employer about an offense that has been ordered to be sealed if:

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

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

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

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

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

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

560 F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8,
 561 19.2-392.11, ~~or 19.2-392.12, or 19.2-392.12:1, or the sealing of an offense without the entry of an order~~
 562 ~~pursuant to § 19.2-392.6:1 or 19.2-392.17~~, shall not relieve the person who was arrested, charged, or
 563 convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the offense
 564 that was ordered to be sealed. *Additionally, no order to seal an arrest, charge, or conviction pursuant to §*
 565 *19.2-392.12 shall be entered unless such person has fully paid his restitution in relation to the offense to be*
 566 *sealed.*

567 G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~
 568 ~~19.2-392.12, or 19.2-392.12:1, or sealed without the entry of an order pursuant to § 19.2-392.6:1 or~~
 569 ~~19.2-392.17~~, may be admissible and considered in proceedings relating to the care and custody of a child. A
 570 person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge,
 571 or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such
 572 failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in §
 573 18.2-434.

574 H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8,
 575 19.2-392.11, ~~or 19.2-392.12, 19.2-392.12:1, or 19.2-392.17~~ shall ~~not~~ be (i) disclosed in any *pretrial or*
 576 *sentencing report, including any discretionary sentencing guidelines*; (ii) considered when ascertaining the
 577 punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a
 578 defendant.

579 I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.11,
 580 ~~or 19.2-392.12, or 19.2-392.12:1~~ shall not constitute a barrier crime as defined in § 19.2-392.02, except as
 581 otherwise required under federal law.

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

586 K. *An order to seal a charge or conviction entered pursuant to § 19.2-392.7, 19.2-392.12, or*
 587 *19.2-392.12:1, or the sealing of an offense without the entry of an order pursuant to § 19.2-392.6:1, shall not*
 588 *serve to restore a person's civil rights or a person's right to possess, transport, or carry a firearm,*
 589 *ammunition for a firearm, or a stun weapon.*

590 **§ 19.2-392.6. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of**
 591 **offenses resulting in conviction.**

592 A. If a person was convicted of a violation of any of the following sections *with an offense date on or*
 593 *after January 1, 1986*, such conviction, including any records relating to such conviction, shall be ordered to
 594 be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and
 595 C: *a misdemeanor violation of § 18.2-96; or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor*
 596 *violation of § 18.2-248.1; or § 18.2-415.*

597 B. Subject to the provisions of subsection C, any conviction listed under subsection A shall be ordered to
 598 be automatically sealed if seven years have passed since the date of the conviction and the person convicted
 599 of such offense has not been convicted of violating any law of the Commonwealth that requires a report to the
 600 Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of
 601 Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during
 602 that time period.

603 C. No conviction listed under subsection A shall be automatically sealed if, on the date of the conviction,
 604 the person was convicted of another offense that is not eligible for automatic sealing under subsection A.

605 D. ~~If a person was charged with any criminal offense and such offense concluded with any final~~
 606 ~~disposition as a violation of former § 18.2-250.1, such offense shall be ordered to be automatically sealed in~~
 607 ~~the manner set forth in § 19.2-392.7.~~

608 E. This section shall not be construed as prohibiting a person from seeking sealing in the circuit court
 609 pursuant to the provisions of § 19.2-392.12 or 19.2-392.12:1.

610 **§ 19.2-392.6:1. Sealing of former possession of marijuana offenses without entry of a court order.**

611 A. *Any criminal or civil offense that concluded with any final disposition as a charge or conviction of*
 612 *former § 18.2-250.1 shall be sealed without the entry of a court order. The Central Criminal Records*

613 Exchange, any court, any law-enforcement agency, and the Department of Motor Vehicles shall identify and
614 seal the records of any such offense in its possession.

615 B. The Department of Motor Vehicles shall not seal any charge or conviction under subsection A in
616 violation of (i) federal regulatory record retention requirements or (ii) federal program requirements if the
617 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the charge or
618 conviction to be sealed.

619 **§ 19.2-392.7. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for automatic**
620 **sealing of offenses resulting in a conviction or deferred disposition.**

621 A. ~~Except as provided in subsection A1, on~~ On at least a monthly basis, the Department of State Police
622 shall electronically determine which offenses with an offense date on or after January 1, 1986, in the Central
623 Criminal Records Exchange meet the criteria for automatic sealing set forth in subsections A, B, and C of §
624 19.2-392.6.

625 ~~A1. No later than July 1, 2025, the Department of State Police shall determine which offenses in the~~
626 ~~Central Criminal Records Exchange meet the criteria for automatic sealing set forth in subsection D of §~~
627 ~~19.2-392.6.~~

628 B. After reviewing the offenses under ~~subsections subsection A and A1~~, the Department of State Police
629 shall provide an electronic list of all offenses that meet the criteria for automatic sealing set forth in §
630 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a
631 case management system that interfaces with the Department of State Police under subsection B1 of §
632 17.1-502. ~~The Department of State Police shall not be required to include an offense on such list if (i) it~~
633 ~~cannot be determined by an electronic review whether the offense is eligible for automatic sealing or (ii) an~~
634 ~~electronic review of the person's criminal history record indicates that the person was charged with violating~~
635 ~~the law of any other state, the District of Columbia, the United States or any territory thereof, excluding~~
636 ~~traffic infractions under Title 46.2, during the seven-year time period set forth in subsection B of §~~
637 ~~19.2-392.6.~~

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

643 D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis the
644 clerk of each circuit court shall prepare an order and the chief judge or *presiding judge* of that circuit court
645 shall enter such order directing that the offenses that meet the criteria for automatic sealing set forth in §
646 19.2-392.6 be automatically sealed under the process described in § 19.2-392.13. Such order shall contain the
647 names of the persons charged with or convicted of such offenses. The clerk of each circuit court shall
648 maintain a copy of all orders entered pursuant to this subsection under seal.

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

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

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

658 **§ 19.2-392.8. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic**
659 **sealing of offenses resulting in acquittal or dismissal.**

660 A. If a person is charged with the commission of a misdemeanor offense, excluding traffic infractions
661 under Title 46.2, and ~~(i) the person is acquitted; (ii) a nolle prosequi is entered; or (iii) the charge is otherwise~~
662 ~~dismissed; excluding any charge that is deferred and dismissed after a finding of facts sufficient to justify a~~
663 ~~finding of guilt against him is dismissed with prejudice, the court disposing of the matter shall; at the time the~~
664 ~~acquittal, nolle prosequi, or dismissal is entered, order that the charge be automatically sealed under the~~
665 ~~process described in § 19.2-392.13, unless the attorney for the Commonwealth or any other person advises~~
666 ~~the court at the time the acquittal, nolle prosequi, or dismissal is entered that:~~

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

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

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

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

673 5. Good cause exists, as established by the Commonwealth by a preponderance of the evidence, that such

674 ~~charge should not be automatically sealed; or~~

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

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

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

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

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

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

693 **§ 19.2-392.11. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic sealing of**
694 **misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with no**
695 **convictions or deferred and dismissed offenses on their criminal history record.**

696 A. On at least an annual basis, the Department of State Police shall *electronically* review the Central
697 Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions *with an*
698 *offense date on or after January 1, 1986*, that resulted in (i) an acquittal, (ii) a nolle prosequi, or (iii) a
699 dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient to justify a
700 finding of guilt, where the criminal history record of such person contains no convictions for any criminal
701 offense for a violation of any law of the Commonwealth that requires a report to the Central Criminal
702 Records Exchange under subsection A of § 19.2-390 and where such criminal history record contains no
703 arrests or charges for a violation of any law of the Commonwealth that requires a report to the Central
704 Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding traffic
705 infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal history
706 record that has previously been ordered to be sealed shall not be deemed a conviction.

707 B. Upon identification of the finalized case dispositions under subsection A, the Department of State
708 Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court and to
709 any circuit court clerk who maintains a case management system that interfaces with the Department of State
710 Police under subsection B1 of § 17.1-502. *The Department of State Police shall not be required to include an*
711 *offense on such list if it cannot be determined by an electronic review whether the offense is eligible for*
712 *automatic sealing.*

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

717 D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis the
718 clerk of each circuit court shall prepare an order and the chief judge *or presiding judge* of that circuit court
719 shall enter such order directing that the offenses be automatically sealed under the process described in §
720 19.2-392.13. Such order shall contain the names of the persons charged with such offenses. The clerk of each
721 circuit court shall maintain a copy of all orders entered pursuant to this subsection under seal.

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

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

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

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

734 ~~I. If an offense is automatically sealed pursuant to the procedure set forth in this section and such offense~~

735 was not ordered to be automatically sealed at the time of acquittal, nolle prosequi, or dismissal for one or
 736 more of the reasons set forth in § 19.2-392.8, the automatic sealing of such offense shall be voidable upon
 737 motion and notice made within two years of the entry of the order to automatically seal such offense.

738 § 19.2-392.12. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing of offenses
 739 resulting in a deferred and dismissed disposition or conviction by petition.

740 A. Except for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4,
 741 ~~18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 as provided in subsection L~~, a person who has been convicted
 742 of or had a charge deferred and dismissed for a (i) misdemeanor offense, (ii) Class 5 or 6 felony, or (iii)
 743 violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and
 744 punished as provided in § 18.2-95, *where the offense date for such misdemeanor or felony was on or after*
 745 *January 1, 1986*, may file a petition setting forth the relevant facts and requesting sealing of the criminal
 746 history record information and court records ~~relating~~ *related* to the charge or conviction; ~~provided that such~~
 747 ~~person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment~~
 748 ~~for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, and (c) not been convicted of~~
 749 ~~any other felony within the past 10 years of his petition. In addition to requesting the sealing of a charge or~~
 750 ~~conviction, such petition may also request the sealing of any specifically identified ancillary matter related to~~
 751 ~~such charge or conviction.~~

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

755 C. The petition with a copy of the warrant, summons, or indictment, if reasonably available, shall be filed
 756 in the circuit court of the county or city in which the case was disposed of and shall contain, except when not
 757 reasonably available, the date of arrest, the name of the arresting agency, ~~and~~ the date of conviction or
 758 *deferred dismissal, and the case number associated with each court record that is the subject of the petition.*
 759 When this information is not reasonably available, the petition shall state the reason for such unavailability.
 760 The petition shall further state the charge or conviction *and any ancillary matters* to be sealed; the date of
 761 final disposition of the charge or conviction *and any ancillary matters* as set forth in the petition; the
 762 petitioner's date of birth, sex, race, and social security number, if available; and the full name used by the
 763 petitioner at the time of arrest or summons. A petition may request the sealing of the criminal history record
 764 information and court records for multiple charges or convictions *and ancillary matters* as set forth in
 765 subsection A provided that all such charges and convictions arose out of the same transaction or occurrence
 766 and all such charges *and convictions* are eligible for sealing. A petition may not request the sealing of
 767 the criminal history record information and court records for multiple charges or convictions that arose out of
 768 different transactions or occurrences, *except that ancillary matters shall not be treated as separate*
 769 *transactions or occurrences.* A petitioner may only have two petitions granted pursuant to this section within
 770 his lifetime. ~~Any petition that is granted (i) solely to seal a violation of subsection A of § 18.2-265.3 as it~~
 771 ~~relates to marijuana, (ii) solely to seal a violation of § 4.1-305, or (iii) to seal a violation of both subsection A~~
 772 ~~of § 18.2-265.3 as it relates to marijuana and § 4.1-305 arising out of the same transaction or occurrence shall~~
 773 ~~not count against the petitioner's lifetime maximum.~~

774 D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the
 775 petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city
 776 or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer
 777 to the petition or may give written notice to the court that he does not object to the petition within ~~24~~ 30 days
 778 after it is delivered to him or received in the mail.

779 E. In addition to the filing of the petition under subsection C, the petitioner shall request that the Central
 780 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia *and national*
 781 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the
 782 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to
 783 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which
 784 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the
 785 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of
 786 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal
 787 to the Supreme Court of Virginia *as provided by law in civil cases.*

788 F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the
 789 petition. The court shall enter an order requiring the sealing of the criminal history record information and
 790 court records, including electronic records, ~~relating~~ *related* to the charge or conviction, only if the court finds
 791 that all criteria in subdivisions 1 through 4 6 are met, as follows:

792 1. *The petitioner has (i) never been convicted of a Class 1 or 2 felony or any other felony punishable by*
 793 *imprisonment for life, (ii) not been convicted of a Class 3 or 4 felony within the past 20 years, and (iii) not*
 794 *been convicted of any other felony within the past 10 years from the date the petition was filed.*

795 2. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, ~~or~~ (iii) release from

796 incarceration ~~or~~ on the charge or conviction set forth in the petition, (iv) a finding that the person was in
 797 violation of a suspended sentence, probation, or parole related to the charge or conviction set forth in the
 798 petition, or (v) release from incarceration following a finding that the person was in violation of a suspended
 799 sentence, probation, or parole related to the charge or conviction set forth in the petition, whichever date
 800 occurred later, the ~~person~~ petitioner has not been convicted of violating any law of the Commonwealth that
 801 requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other
 802 state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions
 803 under Title 46.2, for:

804 a. Seven years for any misdemeanor offense; or

805 b. Ten years for any felony offense;

806 ~~2.~~ 3. If the records relating to the offense indicate that the occurrence leading to the deferral or conviction
 807 involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or
 808 drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

809 ~~3.~~ 4. If the petitioner was ordered by a court to pay restitution as a condition of any charge, conviction, or
 810 ancillary matter that is the subject of the petition, such restitution has been paid in full;

811 5. The petitioner has not previously obtained the sealing of two other deferrals or convictions arising out
 812 of different sentencing events *under this section*; and

813 ~~4.~~ 6. The continued existence and possible dissemination of information relating to the charge or
 814 conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the
 815 petitioner.

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

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

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

837 J. ~~Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth. Any~~
 838 ~~costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to §~~
 839 ~~17.1-205.1.~~

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

843 ~~L.~~ If a petitioner qualifies to file a petition for sealing of records without the payment of fees and costs
 844 pursuant to subsection B and has requested court-appointed counsel, the court shall then appoint counsel to
 845 file the petition for sealing of records and represent the petitioner in the sealed records proceedings. Counsel
 846 appointed to represent such a petitioner shall be compensated for his services subject to guidelines issued by
 847 the Executive Secretary of the Supreme Court of Virginia, in a total amount not to exceed \$120, as
 848 determined by the court, and such compensation shall be paid from the Sealing Fee Fund as provided in §
 849 ~~17.1-205.1.~~

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

855 ~~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,
 856 ~~18.2-266, or 46.2-341.24 is L. The following offenses are ineligible for the sealing of records under this~~

857 section:

858 1. Sections 4.1-309.1, 5.1-13, 18.2-36.1, and 18.2-36.2; subsection A of § 18.2-49.1; and §§ 18.2-51.5,
859 18.2-57.2, 18.2-57.3, 18.2-59.1, 18.2-60.3, 18.2-60.5, 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2,
860 18.2-130, 18.2-144, 18.2-144.1, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-282.1, 18.2-324.2, 18.2-346,
861 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-356.1, 18.2-361.01, 18.2-369, 18.2-370.01,
862 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-371, 18.2-371.1, 18.2-374, 18.2-375, 18.2-376,
863 18.2-376.1, 18.2-377, 18.2-378, 18.2-379, 18.2-381, 18.2-386.1, 18.2-386.2, 18.2-387, 18.2-387.1, 18.2-405,
864 18.2-406, 18.2-472.1, 19.2-62, 29.1-738, 29.1-738.02, 29.1-738.2, 37.2-912, 40.1-100.2, 40.1-103,
865 46.2-341.24, and 46.2-341.26:3;

866 2. Any violation of any offense under § 9.1-902 for which registration with the Sex Offender and Crimes
867 Against Minors Registry is required;

868 3. Any violation of any offense listed under subsection C of § 17.1-805;

869 4. Any violation of any felony offense not listed under subsection C of § 17.1-805 where the person
870 utilized a firearm, as defined in § 18.2-308.2:2, as part of the transaction or occurrence in the underlying
871 offense to be sealed, unless such person's right to possess, transport, or carry a firearm, ammunition for a
872 firearm, or a stun weapon has been restored pursuant to § 18.2-308.2;

873 5. Any violation of an emergency, preliminary, or permanent protective order issued pursuant to Article 4
874 (§ 16.1-246 et seq.) of Chapter 11 of Title 16.1 or Chapter 9.1 (§ 19.2-152.7:1 et seq.), or any family abuse
875 protective order issued pursuant to Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1;

876 6. Any violation of any hate crime as defined in § 52-8.5;

877 7. Any violation of Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;

878 8. Any violation of Title 24.2 (§ 24.2-100 et seq.);

879 9. Any violation involving the possession and distribution of flunitrazepam pursuant to § 18.2-251.2, or
880 the possession of Gamma hydroxybutyric acid (some other names include GHB, gamma hydroxybutyrate,
881 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, and sodium oxybutyrate) pursuant to §
882 18.2-250 ;

883 10. Any violation where a person was found not guilty by reason of insanity;

884 11. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory before the
885 fact, or accessory after the fact, for an offense listed in subdivisions 1 through 9;

886 12. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory before the
887 fact, or accessory after the fact where the completed substantive offense would be punishable as a Class 1, 2,
888 3, or 4 felony or by a term of imprisonment of more than 10 years, with the exception of a violation of §
889 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as
890 provided in § 18.2-95;

891 13. Any violation of any offense where the person was prohibited by the court from possessing or owning
892 a companion animal as a result of the transaction or occurrence in the underlying offense to be sealed, while
893 such prohibition remains in effect; and

894 14. Any violation of Article 6 (§ 3.2-6537 et seq.) of Chapter 65 of Title 3.2 that involved a dangerous or
895 vicious dog as a part of the transaction or occurrence in the underlying offense to be sealed, while the person
896 continues to own or possess such dog.

897 ☐. M. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge ☐,
898 conviction, or ancillary matter under this section when such charge ☐, conviction, or ancillary matter is
899 eligible for sealing under some other section of this chapter.

900 **§ 19.2-392.12:1. Sealing of charges and convictions related to automatic sealing; petition.**

901 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of §
902 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or 18.2-134;
903 a misdemeanor violation of § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a violation of §
904 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file a petition
905 setting forth the relevant facts and requesting the sealing of the criminal history record information and court
906 records relating to the charge or conviction. In addition to requesting the sealing of a charge or conviction,
907 such petition may also request the sealing of any specifically identified ancillary matter related to such
908 charge or conviction.

909 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or
910 19.2-392.11 where the offense date for such conviction or offense was on or after January 1, 1986, or who
911 had an offense sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition
912 setting forth the relevant facts and requesting sealing of the criminal history record information and court
913 records of any specifically identified ancillary matter related to that charge or conviction.

914 C. A person shall not be required to pay any court fees or costs for filing a petition pursuant to this
915 section.

916 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if
917 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed of

918 and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the arresting
919 agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary matter; and (iv)
920 the case number associated with each court record that is the subject of the petition. When this information is
921 not reasonably available, the petition shall state the reason for such unavailability. The petition shall further
922 state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final disposition of the
923 charge, conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date of birth, sex, race,
924 and social security number, if available; and (d) the full name used by the petitioner at the time of arrest or
925 summons. A petition may request the sealing of the criminal history record information and court records for
926 multiple charges, convictions, or ancillary matters as set forth in subsections A and B, provided that all such
927 charges, convictions, and ancillary matters are eligible for sealing under this section. A petition may not
928 request the sealing of the criminal history record information and court records where the charge,
929 conviction, or ancillary matter was finalized on the same date as a conviction or deferred dismissal that is
930 not eligible for sealing under this section.

931 E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within
932 his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum
933 of two petitions set forth in § 19.2-392.12.

934 F. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the
935 petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the
936 Commonwealth of the county or city in which the petition is filed. The attorney for the Commonwealth may
937 file an objection or answer to the petition or may give written notice to the court that he does not object to the
938 petition within 30 days after it is delivered to him or received in the mail.

939 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the Central
940 Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and national
941 criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the
942 CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to
943 receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which
944 shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon completion of the
945 hearing, the court shall cause the criminal history record to be destroyed unless, within 30 days of the date of
946 the entry of the final order in the matter, the petitioner or the attorney for the Commonwealth notes an appeal
947 as provided by law in civil cases.

948 H. After receiving the criminal history record of the petitioner, the court may conduct a hearing on the
949 petition.

950 I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the
951 records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed
952 since the date of conviction or of dismissal of the deferred charge listed in subsection A and the petitioner has
953 not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal
954 Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the
955 United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

956 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter
957 if the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7,
958 or 19.2-392.11.

959 K. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written
960 notice to the court pursuant to subsection F that he does not object to the petition and (ii) stipulates in such
961 written notice that the petitioner is eligible to have such charge, conviction, or ancillary matter sealed, the
962 court may enter an order of sealing without conducting a hearing.

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

964 M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under
965 seal and shall cause an electronic notification of such order to be forwarded to the Department of State
966 Police. Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and
967 social security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons;
968 (iii) the petitioner's state identification number from the criminal history record; (iv) the court case number
969 of the charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number,
970 if available. Upon receipt of such electronic notification, the Department of State Police shall seal such
971 records in accordance with § 19.2-392.13. The Department of State Police shall also electronically notify the
972 Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to
973 maintain or to have obtained such a record that such record has been ordered to be sealed and may only be
974 disseminated in accordance with § 19.2-392.13.

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

978 O. A petition filed under this section and any responsive pleadings filed by the attorney for the

979 Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order
 980 to seal issued pursuant to this section shall be sealed and may only be disseminated for the purposes set forth
 981 in § 19.2-392.13.

982 P. Nothing in this chapter shall prohibit the circuit court from entering an order to seal a charge,
 983 conviction, or ancillary matter under this section when such charge, conviction, or ancillary matter is
 984 eligible for sealing under some other section of this chapter.

985 **§ 19.2-392.13. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disposition of records**
 986 **when an offense is sealed; permitted uses of sealed records.**

987 A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7,
 988 ~~19.2-392.8~~ 19.2-392.10, 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1, or upon the sealing of an offense
 989 without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, the Department of State Police shall not
 990 disseminate any criminal history record information contained in the Central Criminal Records Exchange,
 991 including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for
 992 purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and
 993 procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of
 994 State Police shall electronically notify those agencies and individuals known to maintain or to have obtained
 995 such a record that such record has been ordered to be sealed and may only be disseminated for purposes set
 996 forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures
 997 adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by
 998 whatever means to an offline system or to a confidential and secure area inaccessible from normal use within
 999 the system in which the record is maintained shall be considered sealed, provided that such records are
 1000 accessible only to the manager of the records or their designee.

1001 B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~
 1002 19.2-392.12, or 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to §
 1003 19.2-392.6:1 or 19.2-392.17, the Executive Secretary of the Supreme Court and any circuit court clerk who
 1004 maintains a case management system that interfaces with the Department of State Police under subsection B1
 1005 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public
 1006 online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order
 1007 for sealing, the clerk of the court shall not disseminate any court record of such arrest, charge, or conviction,
 1008 except as provided in subsections D and E.

1009 C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to §
 1010 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without
 1011 a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, shall not be open for public inspection or otherwise
 1012 disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make
 1013 the determination as provided in § 18.2-308.2:2 or through the National Instant Criminal Background Check
 1014 System of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints
 1015 maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing
 1016 Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission
 1017 for research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or
 1018 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for
 1019 the purpose of screening any person for full-time employment or part-time employment with, or to be a
 1020 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by
 1021 the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee
 1022 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency
 1023 medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the
 1024 Department of Forensic Science for the purpose of screening any person for full-time or part-time
 1025 employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality,
 1026 or his designee who shall be an individual employed as a public safety official of the locality, that has
 1027 adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any
 1028 person who applies to be a volunteer with or an employee of an emergency medical services agency as
 1029 provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles,
 1030 any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the
 1031 purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any
 1032 employer or prospective employer or its designee where federal law requires the employer to inquire about
 1033 prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the
 1034 position that a person is applying for, or where access to the premises in or upon which any part of the duties
 1035 of such position is performed or is to be performed, is subject to any requirement imposed in the interest of
 1036 the national security of the United States under any security program in effect pursuant to or administered
 1037 under any contract with, or statute or regulation of, the United States or any Executive Order of the President;
 1038 (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C
 1039 of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize

1040 the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish
 1041 decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time
 1042 employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs
 1043 of the House and Senate Committees for Courts of Justice for the purpose of screening any person for
 1044 full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive
 1045 Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance
 1046 requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or
 1047 prospective employer or its designee that is allowed access to such sealed records in accordance with the
 1048 rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to
 1049 any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the
 1050 Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply
 1051 with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to
 1052 an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such
 1053 proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the
 1054 Department of Social Services or any local department of social services for purposes of performing any
 1055 statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and
 1056 custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the
 1057 Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of
 1058 § 19.2-392.12, whether the court or parties failed to strictly comply with sealing procedures, or whether an
 1059 order for sealing was entered contrary to law; (xxiv) to determine a person's eligibility to be empaneled as a
 1060 juror; ~~and~~ (xxv) to the Auditor of Public Accounts for audit purposes; (xxvi) to the Department of Behavioral
 1061 Health and Developmental Services and any entity defined under § 37.2-100 for purposes of providing any
 1062 services or functions as defined in such section; (xxvii) to the attorney for the Commonwealth, the defendant
 1063 or his counsel, any magistrate, any local community-based probation services agency or pretrial services
 1064 agency, the Department of State Police, any police department, any sheriff's office, any campus police
 1065 department, the Department of Corrections, any court, and the Virginia Criminal Sentencing Commission for
 1066 the purposes set forth in subsection H of § 19.2-392.5; and (xxviii) to the person arrested, charged, or
 1067 convicted of the offense that was sealed.

1068 *C1. In addition to the purposes set forth in subsection C, a sealed record may be disseminated without a*
 1069 *court order within or between any department, division, board, bureau, commission, branch, authority or*
 1070 *other agency created by the Commonwealth, or to which the Commission is a party or any political*
 1071 *subdivision thereof, or with any federal agency, for the purpose of administering any duties or functions*
 1072 *required by state or federal law. Nothing in this subsection shall authorize a business screening service to*
 1073 *allow dissemination of a sealed record due to its continued existence in any such record.*

1074 *D. Upon request from any person to access a paper or a digital image of a court record, the clerk of the*
 1075 *court shall determine whether such record is open to public access and inspection. If the clerk of the court*
 1076 *determines that the court record has been sealed, such record shall not be provided to the requestor without an*
 1077 *order from the court that entered the order to seal the court record or from the court in which the final*
 1078 *disposition was entered if the offense was sealed without the entry of a court order. Any order from a court*
 1079 *that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for*
 1080 *one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a*
 1081 *court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be*
 1082 *charged to any person filing a motion to access a paper or a digital image of a court record that has been*
 1083 *sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the*
 1084 *offense that was sealed.*

1085 *E. No access shall be provided to electronic records in an appellate court, circuit court, or district court*
 1086 *case management system or other system containing electronic case information maintained by the Executive*
 1087 *Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for*
 1088 *any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8,*
 1089 *19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant*
 1090 *to § 19.2-392.6:1 or 19.2-392.17, except to (i) the Virginia Criminal Sentencing Commission, the Virginia*
 1091 *State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (ii)*
 1092 *the Auditor of Public Accounts for audit purposes; (iii) any person authorized to engage in the collection of*
 1093 *court costs, fines, or restitution under subsection C of § 19.2-349 for the purposes of collection of such court*
 1094 *costs, fines, or restitution; and (iv) any person authorized to submit a request for payment to the Office of the*
 1095 *Executive Secretary of the Supreme Court for services provided in a criminal case. Such electronic*
 1096 *Electronic records may be disseminated to the Virginia Criminal Sentencing Commission, the Virginia State*
 1097 *Crime Commission, and the Joint Legislative Audit and Review Commission as authorized in this subsection*
 1098 *without a court order.*

1099 *F. If a pleading or case document in a court record that was sealed is included among other court records*
 1100 *that have not been ordered to be sealed, the clerk of the court shall not be required to prohibit dissemination*

1101 of that record. ~~The Supreme Court, Court of Appeals, and any~~ If an appellate court record contains court
 1102 records that have been sealed, with or without a court order, and court records that have not been sealed, the
 1103 clerk of the Supreme Court or Court of Appeal shall not be required to prohibit dissemination of such
 1104 appellate record. Any circuit court shall not be required to prohibit dissemination of any published or
 1105 unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed. *The Supreme*
 1106 *Court and Court of Appeals shall not be required to prohibit dissemination of any (i) published or*
 1107 *unpublished opinion, order, or summary of a case; (ii) court records for matters in which the Supreme Court*
 1108 *or Court of Appeals has original jurisdiction; or (iii) appellate court record of a traffic infraction under Title*
 1109 *46.2 that is not punishable as a criminal offense relating to an arrest, charge, or conviction that was sealed.*
 1110 *A clerk of the court shall not be required to redact information pertaining to a court record that has been*
 1111 *sealed in any reports or electronic transmissions of case information that are required by statute or prepared*
 1112 *and distributed to a state or local government entity in the normal course of business. Nothing in this*
 1113 *subsection shall authorize a business screening service to allow dissemination of a sealed record due to its*
 1114 *continued existence in any appellate record.*

1115 G. *The clerk of any circuit court shall not be required to redact any sealed record contained in (i) an*
 1116 *order book or order book index; (ii) a land record, as defined in subsection B of § 17.1-292; or (iii) on*
 1117 *microfilm or microfiche. The clerk of any circuit court shall not be required to redact or seal any paper*
 1118 *record for an offense that has been sealed pursuant to § 19.2-392.6:1 or 19.2-392.17. The clerk of any circuit*
 1119 *court who physically removes the paper record of the primary case file for any other charge or conviction*
 1120 *that has been sealed and maintains that file in a physically secure location that is not accessible to the public*
 1121 *shall be in compliance with the requirement to seal the paper record. For the purposes of this subsection, the*
 1122 *primary case file includes the indictment or warrant and any other papers relating to any proceedings on*
 1123 *such indictment or warrant. Nothing in this subsection shall authorize a business screening service to allow*
 1124 *dissemination of a sealed record due to its continued existence in any such record.*

1125 H. *The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and*
 1126 *dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory*
 1127 *record retention requirements or (ii) in violation of federal program requirements if the Department of Motor*
 1128 *Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and*
 1129 *dismissal ordered to be sealed. Upon receipt of an electronic notification of an order directing that an offense*
 1130 *be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention*
 1131 *period has run and all federal program requirements associated with a suspension have been satisfied.*
 1132 *However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time*
 1133 *it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason*
 1134 *the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the*
 1135 *Department of State Police of the date, if known at the time when the sealing is ordered, on which such*
 1136 *record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when*
 1137 *such record has been sealed within the Department of Motor Vehicles' records.*

1138 I. *The Library of Virginia shall not be required to seal any court records in its possession, provided that*
 1139 *such records are not accessible or disseminated to the public.*

1140 H. J. *No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a*
 1141 *testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and*
 1142 *circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party*
 1143 *reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.*

1144 K. *The provisions of this section shall not prohibit the disclosure of sealed criminal history record*
 1145 *information or any information from such records among law-enforcement officers and attorneys when such*
 1146 *disclosures are made by such officers or attorneys while engaged in the performance of their duties for*
 1147 *purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or*
 1148 *between attorneys for the Commonwealth when related to the prosecution of a separate crime.*

1149 **§ 19.2-392.14. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disclosure of**
 1150 **sealed records; penalty.**

1151 A. *It is unlawful for any ~~person~~ employee of any department, division, board, bureau, commission,*
 1152 *branch, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party*
 1153 *or any political subdivision thereof, having or acquiring access to sealed criminal history record information*
 1154 *or a court record, including any records relating to an arrest, charge, or conviction, that was ordered to be*
 1155 *sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1, or*
 1156 *that was sealed without entry of a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, to disclose such*
 1157 *record or any information from such record to another person, except in accordance with the purposes set*
 1158 *forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the*
 1159 *procedures adopted pursuant to § 9.1-134.*

1160 B. *A clerk of the court shall not be in violation of this section if such clerk informs a person requesting*
 1161 *access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a*

1162 court order.

1163 C. Any person who ~~willfully~~ knowingly and intentionally violates this section is guilty of a Class 1
 1164 misdemeanor. ~~Any person who maliciously and intentionally violates this section is guilty of a Class 6~~
 1165 ~~felony.~~

1166 **§ 19.2-392.16. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
 1167 **Dissemination of criminal history records and traffic history records by business screening services.**

1168 A. For the purposes of this section:

1169 "Business screening service" means a person engaged in the business of collecting, assembling,
 1170 evaluating, or disseminating Virginia criminal history records or traffic history records on individuals.

1171 "Business screening service" does not include any government entity or the news media.

1172 "Criminal history record" means any information collected by a business screening service on individuals
 1173 containing any personal identifying information, photograph, or other identifiable descriptions pertaining to
 1174 an individual and any information regarding arrests, detentions, indictments, or other formal criminal charges,
 1175 and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release.

1176 "Delete" means that a criminal history record *or a traffic history record* shall not be disseminated in any
 1177 manner, except to any entity authorized to receive and use such information pursuant to § 19.2-392.13 and
 1178 pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to §
 1179 9.1-134, but may be retained in order to resolve any disputes relating to this section, the accuracy of the
 1180 record consistent with the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the
 1181 Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

1182 "*Sealed possession of marijuana record*" means any criminal or civil offense that concluded with any final
 1183 disposition as a charge or conviction of former § 18.2-250.1 which has been sealed without the entry of a
 1184 court order pursuant to § 19.2-392.6:1.

1185 "Sealed record" means a Virginia criminal history record or a traffic history record that has been sealed
 1186 pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or
 1187 19.2-392.17.

1188 "Traffic history record" means any information collected by a business screening service on individuals
 1189 containing any personal identifying information, photograph, or other identifiable descriptions pertaining to
 1190 an individual and any information regarding arrests, detentions, indictments, or other formal traffic infraction
 1191 charges, and any disposition arising therefrom.

1192 B. If a business screening service knows that a criminal history record or a traffic history record ~~has been~~
 1193 *is a sealed record or a sealed possession of marijuana record, regardless of the source of the record*, the
 1194 business screening service shall promptly delete the record.

1195 C. A business screening service shall register with the Department of State Police to electronically receive
 1196 ~~copies~~ notifications of orders of sealing provided to the Department of State Police pursuant to §§ 19.2-392.7,
 1197 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~and~~ 19.2-392.12, ~~and~~ 19.2-392.12:1. The Department of State Police
 1198 may charge an annual licensing fee to the business screening service for accessing such information, with a
 1199 ~~portion of~~ such fee to be used to cover the cost of providing such records ~~and the remainder of such fee to be~~
 1200 ~~deposited into the Sealing Fee Fund pursuant to § 17.1-205.4~~. The contract between the Department of State
 1201 Police and the business screening service shall prohibit dissemination of *the electronic notifications* of the
 1202 orders of sealing and shall require compliance by the business screening service with the provisions of
 1203 subsections D, E, and F. The *electronic notifications of the orders of sealing* received by the business
 1204 screening service *and all information contained therein* shall remain confidential and shall not be
 1205 disseminated or resold. The *electronic notifications of the orders of sealing* shall be used for the sole purpose
 1206 of deleting criminal history records that have been sealed. The business screening service shall ~~destroy~~ delete
 1207 the ~~copies~~ *electronic notifications* of the orders of sealing after deleting the information contained in such
 1208 orders from sealed records. The Department of State Police shall require that the business screening service
 1209 seeking access to the information identify themselves, certify the purposes for which the information is
 1210 sought, and certify that the information will be used for no other purpose. The Department of State Police
 1211 shall further require that a business screening service acknowledge receipt of all electronic ~~copies~~
 1212 *notifications* of orders of sealing provided by the Department of State Police. The Department of State Police
 1213 shall maintain *and publicly post a public list within* on its website identifying the business screening services
 1214 that are licensed to receive such records.

1215 D. A business screening service that disseminates a criminal history record or a traffic history record on or
 1216 after the effective date of this section shall include the date when the record was collected by the business
 1217 screening service and a notice that the information may include records that have been sealed since that date.

1218 E. A business screening service shall implement and follow reasonable procedures to assure that it does
 1219 not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the
 1220 completeness or accuracy of a criminal history record or traffic history record maintained by a business
 1221 screening service is disputed by the individual who is the subject of the record, the business screening service
 1222 shall, without charge, investigate the disputed record. If, upon investigation, the business screening service

1223 determines that the record does not accurately reflect the content of the official record, the business screening
 1224 service shall correct the disputed record so as to accurately reflect the content of the official record. If the
 1225 disputed record is found to have been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10,
 1226 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or 19.2-392.17, the business screening service shall promptly
 1227 delete the record. A business screening service may terminate an investigation of a disputed record if the
 1228 business screening service reasonably determines that the dispute is frivolous, which may be based on the
 1229 failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon
 1230 making a determination that the dispute is frivolous, the business screening service shall inform the subject of
 1231 the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a
 1232 description of any information required to investigate the disputed record. The business screening service
 1233 shall notify the subject of the disputed record of the correction or deletion of the record or of the termination
 1234 or completion of the investigation related to the record within 30 days of the date when the business
 1235 screening service receives notice of the dispute from the subject of the record.

1236 F. A business screening service shall implement procedures for individuals to submit a request to obtain
 1237 their own criminal history record and traffic history record information maintained by the business screening
 1238 service and any other information that may be sold to another entity by the business screening service
 1239 regarding the individual.

1240 G. A business screening service that violates this section is liable to the person who is the subject of the
 1241 criminal history record or traffic history record for a penalty of \$1,000 or actual damages caused by the
 1242 violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of any suit
 1243 by an individual, the business screening service may make a cure offer in writing to the individual claiming to
 1244 have suffered a loss as a result of a violation of this section. Such offer shall be in writing and include one or
 1245 more things of value, including the payment of money. A cure offer shall be reasonably calculated to remedy
 1246 a loss claimed by the individual, as well as any attorney fees or other fees, expenses, or other costs of any
 1247 kind that such individual may incur in relation to such loss. No cure offer shall be admissible in any
 1248 proceeding initiated under this section, unless the cure offer is delivered by the business screening service to
 1249 the individual claiming loss or to any attorney representing such individual prior to the filing of the business
 1250 screening service's initial responsive pleading in such proceeding. The business screening service shall not be
 1251 liable for such individual's attorney fees and court costs incurred following delivery of the cure offer unless
 1252 the actual damages found to have been sustained and awarded, without consideration of attorney fees and
 1253 court costs, exceed the value of the cure offer.

1254 H. The Attorney General may file a civil action to enforce this section. If the court finds that a business
 1255 screening service has willfully engaged in an act or practice in violation of this section, the Attorney General
 1256 may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$2,500 per
 1257 violation. For the purposes of this section, prima facie evidence of a willful violation may be shown when the
 1258 Attorney General notifies the alleged violator by certified mail that an act or practice is a violation of this
 1259 section and the alleged violator, after receipt of said notice, continues to engage in the act or practice. In any
 1260 civil action pursuant to this subsection, in addition to any civil penalty awarded, the Attorney General may
 1261 also recover any costs and reasonable expenses incurred by the state in investigating and preparing the case,
 1262 not to exceed \$1,000 per violation, and attorney fees. Such additional costs and expenses shall be paid into
 1263 the general fund of the Commonwealth.

1264 I. A business screening service that disseminates criminal history records or traffic history records in the
 1265 Commonwealth is deemed to have consented to service of process in the Commonwealth and to the
 1266 jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the
 1267 recovery of remedies under this section.

1268 J. A business screening service that is a consumer reporting agency and that is in compliance with the
 1269 applicable provisions of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-
 1270 Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to be in compliance with the comparable provisions
 1271 of this section. A business screening service is subject to the state remedies under this section if its actions
 1272 would violate this section and federal law.

1273 K. Any business screening service or person who engages in the conduct of a business screening service,
 1274 as set forth in this section, that fails to register with the Department of State Police as required by
 1275 subsection C and that disseminates criminal history records or traffic history records in the Commonwealth
 1276 may be subject to (i) suit by any person injured by such dissemination and (ii) enforcement actions by the
 1277 Attorney General as set forth in subsection H.

1278 *L. Nothing in this section shall prohibit the prosecution of any person who willfully violates the provisions*
 1279 *of § 19.2-392.14.*

1280 **§ 19.2-392.17. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Traffic**
 1281 **infractions deemed sealed.**

1282 A. ~~Any~~ Except as provided in subsection F of § 19.2-392.13, any record of a traffic infraction under Title
 1283 46.2 with an offense date on or after January 1, 1986, that is not punishable as a criminal offense shall be

1284 deemed to be sealed after 11 years from the date of final disposition of the offense, unless such sealing is
 1285 prohibited under federal or state law. *The Central Criminal Records Exchange, any court, any police*
 1286 *department, sheriff's office, or campus police department, and the Department of Motor Vehicles shall*
 1287 *identify and seal the records of any such infraction in its possession.* No record of any such traffic infraction
 1288 shall be disseminated, unless such dissemination is authorized pursuant to § 19.2-392.13 and pursuant to the
 1289 rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

1290 B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in violation
 1291 of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the
 1292 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the traffic
 1293 infraction that was ~~ordered to be deemed sealed pursuant to subsection A. Upon receipt of an order directing~~
 1294 ~~that a traffic infraction be sealed,~~ the Department of Motor Vehicles shall seal all records *deemed to be*
 1295 *sealed pursuant to subsection A* if the federal regulatory record retention period has run and all federal
 1296 program requirements associated with a suspension have been satisfied. ~~However, if the Department of Motor~~
 1297 ~~Vehicles cannot seal a traffic infraction pursuant to this subsection at the time it is ordered,~~ the Department of
 1298 Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and
 1299 cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the
 1300 date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such
 1301 record on that date; and (d) notify the Department of State Police when such record has been sealed within
 1302 the Department of Motor Vehicles' records.

1303 C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is subject
 1304 to an administrative suspension order issued pursuant to Driver Improvement Program requirements under §
 1305 46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an accumulation of traffic
 1306 infractions, and less than two years has passed since the date that the suspension order was complied with.

1307 **2. That the Department of State Police shall develop a secure portal for the purpose of allowing**
 1308 **government agencies to determine whether a record has been sealed prior to responding to a request**
 1309 **under § 2.2-3706 or 2.2-3706.1 of the Code of Virginia, as amended by this act, by October 1, 2026.**

1310 **3. That the Virginia Indigent Defense Commission shall (i) educate and provide support to public**
 1311 **defenders and certified court-appointed counsel on expungement and sealing, (ii) conduct trainings on**
 1312 **expungement and sealing across the Commonwealth, (iii) develop a library of resources on**
 1313 **expungement and sealing for use by public defenders and certified court-appointed counsel, and (iv)**
 1314 **post information regarding expungement and sealing for use by the public on its website.**

1315 **4. That § 17.1-205.1 of the Code of Virginia is repealed, and that any money in the Sealing Fee Fund**
 1316 **created in such section shall revert to the general fund.**

1317 **5. That the provisions of §§ 2.2-3706 and 2.2-3706.1 and §§ 9.1-101, 9.1-128, 17.1-293.1, 17.1-502,**
 1318 **19.2-310.7, 19.2-392.2, 19.2-392.5 through 19.2-392.8, 19.2-392.11 through 19.2-392.14, 19.2-392.16, and**
 1319 **19.2-392.17, as they shall become effective, of the Code of Virginia, as amended by the first enactment**
 1320 **of this act, and §§ 19.2-392.6:1 and 19.2-392.12:1 of the Code of Virginia, as created by this act, shall**
 1321 **become effective July 1, 2026.**

1322 **6. That the fourth enactment of Chapter 524 and the fourth enactment of Chapter 542 of the Acts of**
 1323 **Assembly of 2021, Special Session I, are amended and reenacted as follows:**

1324 **4. That the provisions of §§ 9.1-101, 9.1-128, 9.1-134, 17.1-293.1, 17.1-502, and 19.2-310.7, and**
 1325 **~~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**
 1326 **Title 19.2 of the Code of Virginia, as created by this act, shall become effective on the earlier of (i) the**
 1327 **first day of the fourth month following notification of the Chair of the Virginia Code Commission and**
 1328 **the Chairs of the Senate Committee on the Judiciary and the House Committee for Courts of Justice by**
 1329 **the Superintendent of State Police that the Executive Secretary of the Supreme Court of Virginia, the**
 1330 **Department of State Police, and any circuit court clerk who maintains a case management system that**
 1331 **interfaces with the Department of State Police under subsection B1 of § 17.1-502 of the Code of**
 1332 **Virginia, as amended by this act, have automated systems to exchange information as required by §§**
 1333 **~~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**
 1334 **(ii) July 1, 2025 2026.**

1335 **7. That the fifth enactment of Chapter 524 and the fifth enactment of Chapter 542 of the Acts of**
 1336 **Assembly of 2021, Special Session I, are amended and reenacted as follows:**

1337 **5. That the Department of State Police shall first transmit the list required under subsection B of §**
 1338 **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**
 1339 **the third month following the effective date of this act as provided in clause (i) of the fourth enactment**
 1340 **of this act or (ii) October 1, 2025 2026.**

1341 **8. That the sixth enactment of Chapter 524 and the sixth enactment of Chapter 542 of the Acts of**
 1342 **Assembly of 2021, Special Session I, are amended and reenacted as follows:**

1343 **6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police,**
 1344 **and any circuit court clerk who maintains a case management system that interfaces with the**

1345 Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended by
 1346 this act, shall automate systems to exchange information as required by §§ 19.2-392.7, 19.2-392.10,
 1347 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~~
 1348 2026.

1349 9. That the seventh enactment of Chapter 524 and the seventh enactment of Chapter 542 of the Acts of
 1350 Assembly of 2021, Special Session I, are amended and reenacted as follows:

1351 7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for
 1352 requesting and authorizing access to a sealed court record as set forth in section D of § 19.2-392.13 of
 1353 the Code of Virginia, as created by this act, not later than July 1, ~~2025~~ 2026.

1354 10. That the third enactment of Chapter 554 and the third enactment of Chapter 555 of the Acts of
 1355 Assembly of 2023 are amended and reenacted as follows:

1356 3. That § 19.2-389.3 of the Code of Virginia is repealed effective on the earlier of (i) the date on
 1357 which the processes to seal criminal history record information and court records pursuant to
 1358 Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective or (ii) July 1,
 1359 ~~2025~~ 2026.

1360 11. That the fourth enactment of Chapter 554 and the fourth enactment of Chapter 555 of the Acts of
 1361 Assembly of 2023 are amended and reenacted as follows:

1362 4. That the provisions of § 19.2-392.3 of the Code of Virginia, as amended by this act, shall become
 1363 effective on July 1, 2025 and that the provisions of §§ 9.1-128, 19.2-392.2, ~~19.2-392.3~~, 19.2-392.6,
 1364 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, and 19.2-392.13 of the Code of Virginia, as amended
 1365 by this act, shall become effective on the earlier of (i) the date on which the processes to seal criminal
 1366 history record information and court records pursuant to Chapters 524 and 542 of the Acts of
 1367 Assembly of 2021, Special Session I, become effective or (ii) July 1, ~~2025~~ 2026.

1368 12. That the fifth enactment of Chapter 554 and the fifth enactment of Chapter 555 of the Acts of
 1369 Assembly of 2023 are amended and reenacted as follows:

1370 5. That the Department of State Police shall first transmit the lists required under subsection B of §
 1371 19.2-392.7 of the Code of Virginia, as amended by this act, not later than the earlier of (i) the first day
 1372 of the third month following the date on which the processes to seal criminal history record
 1373 information and court records pursuant to Chapters 524 and 542 of the Acts of Assembly of 2021,
 1374 Special Session I, become effective or (ii) October 1, ~~2025~~ 2026.

1375 13. That the Department of State Police, Department of Motor Vehicles, Office of the Executive
 1376 Secretary of the Supreme Court of Virginia, and clerk of any circuit court shall provide data and
 1377 information on sealing upon request of the Virginia State Crime Commission for purposes of
 1378 monitoring and evaluating the implementation and impact of the sealing processes.