25107009D

SENATE BILL NO. 1466

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 10, 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 the third enactment of Chapter 554 and the third enactment 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 performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective

details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

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

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

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

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

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

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

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, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

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

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

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

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

A. For purposes of this section:

"Criminal investigative files" means 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, other than criminal incident information subject to disclosure in accordance with subsection B.

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

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

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

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

1. A general description of the criminal activity reported;

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

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

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

5. A description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of this subsection.

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

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

1. The victim;

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

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

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

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

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

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

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

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

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

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

3. Would constitute an unwarranted invasion of personal privacy;

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

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

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

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

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

Upon receipt of notice that a public body has received a request for criminal investigative files pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an appropriate court a petition for an injunction to prevent the disclosure of the records as set forth in § 8.01-622.2. The public body

shall not respond to the request until at least 14 days has passed from the time notice was received by an individual listed in clause (i), (ii), or (iii) unless such individual has waived the 14-day period or at the request of the victim's insurance company or attorney. The period within which the public body shall respond to the underlying request pursuant to § 2.2-3704 shall be tolled pending the notification process and any subsequent disposition by the court.

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

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

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

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

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

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, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

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

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

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

"Board" means the Criminal Justice Services Board.

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

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

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

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

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

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

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

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

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of

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

"Department" means the Department of Criminal Justice Services.

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

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

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

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

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students

violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

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

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

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

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

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

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

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

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

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

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

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 19.2-392.12:1*, any circuit court clerk who maintains a viewable online case management or case information system shall not make any offense that was ordered to be sealed available for online public viewing. *Any offense that was sealed without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17 shall not be available for online public viewing in any such system.*

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

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

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

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

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

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

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

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

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

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 grounds for expungement of a person's DNA profile or any records in the data bank relating to that DNA profile.

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

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

1. Is acquitted, or

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

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

C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except when not reasonably available, the date of arrest and the name of the arresting agency. When this information is not reasonably available, the petition shall state the reason for such unavailability. The petition shall further state the specific criminal charge or civil offense to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest. If the petition is filed under this subsection, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.

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

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

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

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

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

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

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

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

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

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

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

§ 19.2-392.5. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing

defined; effect of sealing.

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

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

"Records related to an arrest, charge, or conviction" means (i) the record of any specific arrest, charge, 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, 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 pursuant to § 19.2-392.12 or 19.2-392.12:1.

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

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

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

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

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

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

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

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

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

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

Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or

willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

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

G. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 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 19.2-392.17,* may be admissible and considered in proceedings relating to the care and custody of a child. A person as to whom an order for sealing has been entered may be required to disclose a sealed arrest, charge, or conviction as part of such proceedings. Failure to disclose such sealed arrest, charge, or conviction, if such failure to disclose was knowing or willful, shall be a ground for prosecution of perjury as provided for in § 18.2-434.

H. Any arrest, charge, or conviction sealed pursuant to § *19.2-392.6:1,* 19.2-392.7, 19.2-392.8, 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* sentencing report, *including any discretionary sentencing guidelines*; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

I. Any arrest, charge, or conviction sealed pursuant to § *19.2-392.6:1,* 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~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 otherwise required under federal law.

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

K. An order to seal a charge or conviction entered pursuant to § 19.2-392.7, 19.2-392.12, or 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 serve to restore a person's civil rights or a person's right to possess, transport, or carry a firearm, ammunition for a firearm, or a stun weapon.

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

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

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

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

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

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

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

A. Any criminal or civil offense that concluded with any final disposition as a charge or conviction of former § 18.2-250.1 shall be sealed without the entry of a court order. The Central Criminal Records Exchange, any court, any law-enforcement agency, and the Department of Motor Vehicles shall identify and seal the records of any such offense in its possession.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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, 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 of or had a charge deferred and dismissed for a (i) misdemeanor ~~offense~~, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95, *where the offense date for such misdemeanor or felony was on or after*

January 1, 1986, may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records ~~relating~~ *related* to the charge or conviction~~, provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20 years, and (c) not been convicted of any other felony within the past 10 years of his petition~~. *In addition to requesting the sealing of a charge or conviction, such petition may also request the sealing of any specifically identified ancillary matter related to such charge or conviction.*

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

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

D. The Commonwealth shall be made party to the proceeding. The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within ~~21~~ *30* days after it is delivered to him or received in the mail.

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

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

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

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

a. Seven years for any misdemeanor offense; or

b. Ten years for any felony offense;

~~2.~~ *3.* If the records relating to the offense indicate that the occurrence leading to the deferral or conviction

involved the use or dependence upon alcohol or any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

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

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

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

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

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

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

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

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

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

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

~~N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 is~~ *L. The following offenses are* ineligible for ~~the~~ sealing ~~of records~~ under this section*:*

1. Section 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, 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, 18.2-130, 18.2-130.1, 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, 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, 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, 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, 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, 46.2-341.24, and 46.2-341.26:3;

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

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

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

5. Any violation of an emergency, preliminary, or permanent protective order issued pursuant to Article 4 (§ 16.1-246 et seq.) of Chapter 11 of Title 16.1, § 16.1-279.1, or Chapter 9.1 (§ 19.2-152.7:1 et seq.);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. A petitioner is not limited in the number of petitions that may be granted pursuant to this section within his lifetime. Any petition granted pursuant to this section shall not be counted toward the lifetime maximum

of two petitions set forth in § 19.2-392.12.

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

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

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

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

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

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

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

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

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

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

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

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

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, ~~19.2-392.8~~ *19.2-392.10,* 19.2-392.11, ~~or~~ 19.2-392.12*, or 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17,* the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained

such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

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

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12*, 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17*, shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 *or through the National Instant Criminal Background Check System* of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House and Senate Committees for Courts of Justice for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the

Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12, whether the court or parties failed to strictly comply with sealing procedures, or whether an order for sealing was entered contrary to law; (xxiv) to determine a person's eligibility to be empaneled as a juror; ~~and~~ (xxv) *to the Auditor of Public Accounts for audit purposes; (xxvi) to the Department of Behavioral Health and Developmental Services and any entity defined under § 37.2-100 for purposes of providing any services or functions as defined in such section; (xxvii) to the attorney for the Commonwealth, the defendant or his counsel, any magistrate, any local community-based probation services agency or pretrial services agency, the Department of State Police, any police department, any sheriff's office, any campus police department, the Department of Corrections, any court, and the Virginia Criminal Sentencing Commission for the purposes set forth in subsection H of § 19.2-392.5; and (xxviii)* to the person arrested, charged, or convicted of the offense that was sealed.

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

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

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

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

G. *The clerk of any circuit court shall not be required to redact any sealed record contained in (i) an order book or order book index; (ii) a land record, as defined in subsection B of § 17.1-292; or (iii) on microfilm or microfiche. The clerk of any circuit court shall not be required to redact or seal any paper 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*

court who physically removes the paper record of the primary case file for any other charge or conviction that has been sealed and maintains that file in a physically secure location that is not accessible to the public shall be in compliance with the requirement to seal the paper record. For the purposes of this subsection, the primary case file includes the indictment or warrant and any other papers relating to any proceedings on such indictment or warrant. Nothing in this subsection shall authorize a business screening service to allow dissemination of a sealed record due to its continued existence in any such record.

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

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

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

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

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

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

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

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

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

A. For the purposes of this section:

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

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

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

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

Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

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

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

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

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

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

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

E. A business screening service shall implement and follow reasonable procedures to assure that it does not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the completeness or accuracy of a criminal history record or traffic history record maintained by a business screening service is disputed by the individual who is the subject of the record, the business screening service shall, without charge, investigate the disputed record. If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the official record, the business screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to have been sealed pursuant to § *19.2-392.6:1,* 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 19.2-392.17,* the business screening service shall promptly delete the record. A business screening service may terminate an investigation of a disputed record if the business screening service reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a description of any information required to investigate the disputed record. The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the business screening service receives notice of the dispute from the subject of the record.

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

G. A business screening service that violates this section is liable to the person who is the subject of the criminal history record or traffic history record for a penalty of $1,000 or actual damages caused by the violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of any suit

by an individual, the business screening service may make a cure offer in writing to the individual claiming to have suffered a loss as a result of a violation of this section. Such offer shall be in writing and include one or more things of value, including the payment of money. A cure offer shall be reasonably calculated to remedy a loss claimed by the individual, as well as any attorney fees or other fees, expenses, or other costs of any kind that such individual may incur in relation to such loss. No cure offer shall be admissible in any proceeding initiated under this section, unless the cure offer is delivered by the business screening service to the individual claiming loss or to any attorney representing such individual prior to the filing of the business screening service's initial responsive pleading in such proceeding. The business screening service shall not be liable for such individual's attorney fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorney fees and court costs, exceed the value of the cure offer.

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

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

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

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

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

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

A. ~~Any~~ *Except as provided in subsection F of § 19.2-392.13, any* record of a traffic infraction under Title 46.2 *with an offense date on or after January 1, 1986,* that is not punishable as a criminal offense shall be deemed to be sealed after 11 years from the date of final disposition of the offense, unless such sealing is prohibited under federal or state law. *The Central Criminal Records Exchange, any court, any police department, sheriff's office, or campus police department, and the Department of Motor Vehicles shall identify and seal the records of any such infraction in its possession.* No record of any such traffic infraction shall be disseminated, unless such dissemination is authorized pursuant to § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

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

C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is subject to an administrative suspension order issued pursuant to Driver Improvement Program requirements under §

46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an accumulation of traffic infractions, and less than two years has passed since the date that the suspension order was complied with.

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

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

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

5. That §§ 19.2-392.6:1 and 19.2-392.12:1 of the Code Virginia, as created by this act, and any references thereto shall become effective on July 1, 2026.

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

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

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