CHAPTER 1127

An Act to amend and reenact §§ 16.1-306, 19.2-298.02, and 19.2-392.2, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to expungement of police and court records.

[S 230]

Approved May 14, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-306, 19.2-298.02, and 19.2-392.2, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 16.1-306. Expungement of court records.

A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records, including electronic records, connected with any proceeding concerning a juvenile in such court, if such juvenile has attained the age of 19 years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section. However, if the juvenile was found guilty of an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records shall be destroyed when the juvenile has attained the age of 29. If the juvenile was found guilty of a delinquent act which would be a felony if committed by an adult, the records shall be retained.

B. However, in all files in which the court records concerning a juvenile contain a finding of guilty of any offense ancillary to (i) a delinquent act that would be a felony if committed by an adult or (ii) any offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records of any such ancillary offense shall also be retained for the time specified for the felony or the offense reported to the Department of Motor Vehicles as specified in subsection A, and all such records shall be available for inspection as provided in § 16.1-305.

C. ~~A~~ *If a* person ~~who has been~~ *was* the subject of a delinquency or traffic proceeding and ~~(i) has been found innocent thereof or (ii) such proceeding was otherwise dismissed,~~ *was not ultimately adjudicated delinquent or convicted, provided that no stipulation of facts sufficient to find guilt was entered or the court did not determine the facts sufficient to find guilt but deferred adjudication or disposition to a later date, such matter is eligible for expungement. Such person* may file a motion requesting the destruction of all records ~~pertaining to such charge. Notice of such motion~~ *and* shall ~~be given~~ *give notice of the motion* to the attorney for the Commonwealth. Unless good cause is shown why such records should not be destroyed, the court shall grant the motion~~,~~ and shall send copies of the order to all officers or agencies that are repositories of such records, and all such officers and agencies shall comply with the order.

D. Each person shall be notified of his rights under subsections A and C ~~of this section~~ at the time of his dispositional hearing.

E. Upon destruction of the records of a proceeding as provided in subsections A, B, and C, the violation of law shall be treated as if it never occurred. All index references shall be deleted and the court and law-enforcement officers and agencies shall reply and the person may reply to any inquiry that no record exists with respect to such person.

F. All docket sheets shall be destroyed in the sixth year after the last hearing date recorded on the docket sheet.

§ 19.2-298.02. Deferred disposition in a criminal case.

A. A trial court presiding in a criminal case may, with the agreement of the defendant and the Commonwealth, after any plea or trial, with or without a determination, finding, or pronouncement of guilt, and notwithstanding the entry of a conviction order, upon consideration of the facts and circumstances of the case, including (i) mitigating factors relating to the defendant or the offense, (ii) the request of the victim, or (iii) any other appropriate factors, defer proceedings, defer entry of a conviction order, if none, or defer entry of a final order, and continue the case for final disposition, on such reasonable terms and conditions as may be agreed upon by the parties and placed on the record, or if there is no agreement, as may be imposed by the court. Final disposition may include (a) conviction of the original charge, (b) conviction of an alternative charge, or (c) dismissal of the proceedings.

B. Upon violation of a term or condition, the court may enter an adjudication of guilt, if not already entered, and make any final disposition of the case provided by subsection A. Upon fulfillment of the terms and conditions, the court shall adjudicate the matter consistent with the agreement of the parties or, if none, by conviction of an alternative charge or dismissal of the case.

C. By consenting to and receiving a deferral of proceedings or a deferral of entry of a final order of guilt and fulfilling the conditions as specified by the court as provided by subsection A, the defendant waives his

right to appeal such entry of a final order of guilt.

Prior to granting a deferral of proceedings, a deferral of entry of a conviction order, if none, or a deferral of a final order, the court shall notify the defendant that he would be waiving his rights to appeal any final order of guilt if such deferral is granted.

D. Upon agreement of all parties, a *person whose* charge ~~that~~ is dismissed pursuant to this section, including an original charge that was reduced or a charge that is dismissed after a plea or stipulation of the facts that would justify a finding of guilt, may be considered as ~~otherwise dismissed~~ *not ultimately convicted and eligible* for ~~purposes of~~ expungement of police and court records in accordance with § 19.2-392.2, and such agreement of all parties and expungement eligibility may be indicated in the final disposition order.

§ 19.2-392.2. (Effective until July 1, 2026) Expungement of police and court records.

A. If a person is *arrested,* charged ~~with~~*, summonsed, or indicted for* the commission of *an infraction,* a crime, *or* 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~~ *is not ultimately convicted, provided that no stipulation of facts sufficient to find guilt was entered or the court did not determine the facts sufficient to find guilt but deferred adjudication or disposition to a later date, such matter is eligible for expungement. Such person* may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

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 person shall not be required to pay any fees 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~~ *charging document,* 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~~ *resolved* and shall contain, except when not reasonably available, the date of arrest and the name of the arresting agency. *A single petition may request the expungement of the police and court records for multiple charges arising out of separate transactions or occurrences.* When this information is not reasonably available, the petition shall state the reason for such unavailability. *Such unavailability alone shall not be a basis for refusing expungement.* 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*, and if an objection is filed, shall include the basis for such objection,* 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~~ *that* constitute a *potential* manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records *and any specifically identified emergency or preliminary protective orders issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 19.2-152.8, or 19.2-152.9,* 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~~ *that* constitute a *potential* manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing. *The existence of a prior conviction alone shall not be a sufficient basis to deny an expungement.*

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. *Any person whose petition for relief under this section is the subject of an appeal shall be allowed to proceed under a pseudonym pursuant to § 8.01-15.1 upon his request.*

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. 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.

§ 19.2-392.2. (Effective July 1, 2026) Expungement of police and court records.

A. If a person is *arrested,* charged ~~with~~*, summonsed, or indicted for* the commission of *an infraction,* a crime, *or* 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~~ *is not ultimately convicted, provided that no stipulation of facts sufficient to find guilt was entered or the court did not determine the facts sufficient to find guilt but deferred adjudication or disposition to a later date, such matter is eligible for expungement. Such person* 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. A person shall not be required to pay any court fees or costs for filing 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~~ *charging document,* 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~~ *resolved* and shall contain, except when not reasonably available, the date of arrest and the name of the arresting agency. *A single petition may request the expungement of the police and*

court records for multiple charges arising out of separate transactions or occurrences. When this information is not reasonably available, the petition shall state the reason for such unavailability. *Such unavailability alone shall not be a basis for refusing expungement.* 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, *and if an objection is filed, shall include the basis for such objection,* 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~~ *that* constitute a *potential* manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records *and any specifically identified emergency or preliminary protective orders issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 19.2-152.8, or 19.2-152.9,* 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~~ *that* constitute a *potential* manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing. *The existence of a prior conviction alone shall not be a sufficient basis to deny an expungement.*

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. *Any person whose petition for relief under this section is the subject of an appeal shall be allowed to proceed under a pseudonym pursuant to § 8.01-15.1 upon his request.*

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. The Department of State Police shall validate the accuracy of any criminal history record ordered to be expunged pursuant to this section but shall not validate whether such record is eligible for expungement.

L. 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.

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.

2. That the provisions of this act shall become effective on December 1, 2026.