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SENATE BILL NO. 1283

Offered January 13, 2021

Prefiled January 11, 2021

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-389.3, and 19.2-390 of the Code of Virginia and to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.14, relating to automatic expungement of criminal records.

Patrons—Morrissey; Delegates: Hope, Kory, Rasoul, Simon and Simonds

Referred to Committee on the Judiciary

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, 19.2-72, 19.2-74, 19.2-310.7, 19.2-389.3, and 19.2-390 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 23.2, consisting of sections numbered 19.2-392.5 through 19.2-392.14, as follows:

§ 9.1-101. (Effective until March 1, 2021) 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.

"Automatic expungement" means to (i) restrict dissemination of criminal history record information contained in the Central Criminal Records Exchange to the purposes set forth in subsection C of § 19.2-392.12 and (ii) prohibit dissemination of court records, unless such dissemination is authorized by a court order for one of the purposes set forth in subsection C of § 19.2-392.12.

"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.

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

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

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

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

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

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

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

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

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160 within the context of its criminal justice activities, employs special conservators of the peace appointed  
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163 Criminal Justice Services Board and submits reports of compliance with the training standards and (b)  
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237 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
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 245 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
 246 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
 247 within the content of the submitted information.

248 **§ 17.1-293.1. Online case information system.**

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

254 B. *Upon entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9,*  
 255 *or 19.2-392.11, the Executive Secretary shall not make any offense that was ordered to be automatically*  
 256 *expunged available for online public viewing in an appellate court, circuit court, or district court case*  
 257 *management system maintained by the Executive Secretary.*

258 C. *Upon entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9,*  
 259 *or 19.2-392.11, any circuit court clerk who maintains a viewable online case management or case*  
 260 *information system shall not make any offense that was ordered to be automatically expunged available*  
 261 *for online public viewing.*

262 **§ 17.1-323. Clerk to deliver opinions to Reporter.**

263 A. In those cases ~~which~~ that the Reporter is directed to report, copies of the reasons stated in writing,  
 264 under Section 6 of Article VI of the Constitution of Virginia, shall be delivered by the clerk of the  
 265 Court to the Reporter.

266 B. *If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,*  
 267 *19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Supreme Court*  
 268 *exists in relation to that offense, the clerk shall redact the name of the person charged with the offense*  
 269 *that was ordered to be automatically expunged from any decision or order of the Supreme Court that*  
 270 *references such offense, unless such decision or order also includes offenses that were not ordered to be*  
 271 *automatically expunged.*

272 **§ 17.1-413. Opinions; reporting, printing and electronic publication.**

273 A. The Court of Appeals shall state in writing the reasons for its decision (i) rejecting a petition for  
 274 appeal or (ii) deciding a case after hearing. Subject to rules promulgated under § 17.1-403 the Court in  
 275 its discretion may render its decision by order or memorandum opinion. All orders and opinions of the  
 276 Court of Appeals shall be preserved with the record of the case. Opinions designated by the Court of  
 277 Appeals as having precedential value or as otherwise having significance for the law or legal system  
 278 shall be expeditiously reported in separate Court of Appeals Reports in the same manner as the  
 279 decisions and opinions of the Supreme Court. The clerk of the Court of Appeals shall retain in the  
 280 clerk's office a list and brief summary of the case for all unpublished decisions and opinions of the  
 281 Court of Appeals. The list of cases and summary shall be made available to any person upon request.

282 B. *If an offense is ordered to be automatically expunged pursuant to § 19.2-392.7, 19.2-392.8,*  
 283 *19.2-392.9, or 19.2-392.11 and a published or unpublished decision or order of the Court of Appeals*  
 284 *exists in relation to that offense, the clerk of the Court of Appeals shall redact the name of the person*  
 285 *charged with the offense that was ordered to be automatically expunged from any decision or order of*  
 286 *the Court of Appeals that references such offense, unless such decision or order also includes offenses*  
 287 *that were not ordered to be automatically expunged.*

288 C. The Executive Secretary of the Supreme Court shall contract for the printing of the reports of the  
 289 Supreme Court and the Court of Appeals and for the advance sheets of each court. He shall select a  
 290 printer for the reports and prescribe such contract terms as will ensure issuance of the reports as soon as  
 291 practicable after a sufficient number of opinions are filed. He shall make such contracts after  
 292 consultation with the Department of General Services and shall distribute these reports in accordance  
 293 with the applicable provisions of law. He shall also provide for the electronic publication on the Internet  
 294 of the opinions of the Supreme Court and Court of Appeals subject to conditions and restrictions  
 295 established by each court regarding the electronic publication of its opinions.

296 D. *Upon redaction of any published or unpublished decision or order of the Supreme Court or the*  
 297 *Court of Appeals pursuant to subsection B or to subsection B of § 17.1-323, the Executive Secretary of*  
 298 *the Supreme Court shall remove the decision or order published on Virginia's Judicial System website*  
 299 *and replace such decision or order with the redacted version of the decision or order.*

300 **§ 17.1-502. Administrator of circuit court system.**

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

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

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

310 *B1. If the data from a case management system established under subsection B is not provided to the*  
311 *Executive Secretary of the Supreme Court through an interface, such data shall be provided to the*  
312 *Department of State Police through an interface for purposes of complying with §§ 19.2-392.7,*  
313 *19.2-392.10, and 19.2-392.11. The parameters of such interface shall be determined by the Department*  
314 *of State Police. The costs of designing, implementing, and maintaining such interface shall be the*  
315 *responsibility of the circuit court clerk.*

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

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

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

332 **§ 19.2-72. When it may issue; what to recite and require.**

333 On complaint of a criminal offense to any officer authorized to issue criminal warrants he shall  
334 examine on oath the complainant and any other witnesses, or when such officer shall suspect that an  
335 offense punishable otherwise than by a fine has been committed he may, without formal complaint,  
336 issue a summons for witnesses and shall examine such witnesses. A written complaint shall be required  
337 if the complainant is not a law-enforcement officer; however, if no arrest warrant is issued in response  
338 to a written complaint made by such complainant, the written complaint shall be returned to the  
339 complainant. If upon such examination such officer finds that there is probable cause to believe the  
340 accused has committed an offense, such officer shall issue a warrant for his arrest, except that no  
341 magistrate may issue an arrest warrant for a felony offense upon the basis of a complaint by a person  
342 other than a law-enforcement officer or an animal control officer without prior authorization by the  
343 attorney for the Commonwealth or by a law-enforcement agency having jurisdiction over the alleged  
344 offense. The warrant shall (i) be directed to an appropriate officer or officers, (ii) name the accused or,  
345 if his name is unknown, set forth a description by which he can be identified with reasonable certainty,  
346 (iii) describe the offense charged with reasonable certainty, (iv) command that the accused be arrested  
347 and brought before a court of appropriate jurisdiction in the county, city or town in which the offense  
348 was allegedly committed, and (v) be signed by the issuing officer. *If a warrant is issued for an offense*  
349 *in violation of any county, city, or town ordinance that is similar to any provision of this Code, the*  
350 *warrant shall reference the offense using both the citation corresponding to the county, city, or town*  
351 *ordinance and the specific provision of this Code.* The warrant shall require the officer to whom it is  
352 directed to summon such witnesses as shall be therein named to appear and give evidence on the  
353 examination. But in a city or town having a police force, the warrant shall be directed "To any  
354 policeman, sheriff or his deputy sheriff of such city (or town)," and shall be executed by the policeman,  
355 sheriff or his deputy sheriff into whose hands it shall come or be delivered. A sheriff or his deputy may  
356 execute an arrest warrant throughout the county in which he serves and in any city or town surrounded  
357 thereby and effect an arrest in any city or town surrounded thereby as a result of a criminal act  
358 committed during the execution of such warrant. A jail officer as defined in § 53.1-1 employed at a  
359 regional jail or jail farm is authorized to execute a warrant of arrest upon an accused in his jail. The  
360 venue for the prosecution of such criminal act shall be the jurisdiction in which the offense occurred.

361 **§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case; issuance**  
362 **of summons by special conservators of the peace.**

363 A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any  
364 violation committed in such officer's presence which offense is a violation of any county, city or town  
365 ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other  
366 misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for

367 offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a  
 368 summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the  
 369 arresting officer shall take the name and address of such person and issue a summons or otherwise  
 370 notify him in writing to appear at a time and place to be specified in such summons or notice. Upon the  
 371 giving by such person of his written promise to appear at such time and place, the officer shall forthwith  
 372 release him from custody. However, if any such person shall fail or refuse to discontinue the unlawful  
 373 act, the officer may proceed according to the provisions of § 19.2-82.

374 Anything in this section to the contrary notwithstanding, if any person is believed by the arresting  
 375 officer to be likely to disregard a summons issued under the provisions of this subsection, or if any  
 376 person is reasonably believed by the arresting officer to be likely to cause harm to himself or to any  
 377 other person, a magistrate or other issuing authority having jurisdiction shall proceed according to the  
 378 provisions of § 19.2-82.

379 2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of  
 380 any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4  
 381 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise  
 382 provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting  
 383 officer shall take the name and address of such person and issue a summons or otherwise notify him in  
 384 writing to appear at a time and place to be specified in such summons or notice. Upon the giving of  
 385 such person of his written promise to appear at such time and place, the officer shall forthwith release  
 386 him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the  
 387 officer may proceed according to the provisions of § 19.2-82.

388 3. Unless otherwise authorized by law, any person so summoned shall not be held in custody after  
 389 the issuance of such summons for the purpose of complying with the requirements of Chapter 23  
 390 (§ 19.2-387 et seq.). Reports to the Central Criminal Records Exchange concerning such persons shall be  
 391 made pursuant to subdivision A 2 of § 19.2-390 and subsection C of § 19.2-390.

392 Any person refusing to give such written promise to appear under the provisions of this section shall  
 393 be taken immediately by the arresting or other police officer before a magistrate or other issuing  
 394 authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

395 Any person who willfully violates his written promise to appear, given in accordance with this  
 396 section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of,  
 397 and in addition to, the charge upon which he was originally arrested.

398 Any person charged with committing any violation of § 18.2-407 may be arrested and immediately  
 399 brought before a magistrate who shall proceed as provided in § 19.2-82.

400 B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses  
 401 pursuant to this section, if such officers are in uniform or displaying a badge of office. On application,  
 402 the chief law-enforcement officer of the county or city shall supply each officer with a supply of  
 403 summons forms, for which such officer shall account pursuant to regulation of such chief  
 404 law-enforcement officer.

405 C. The summons used by a law-enforcement officer pursuant to this section shall be in form the  
 406 same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388. *If*  
 407 *the summons is issued for an offense in violation of any county, city, or town ordinance that is similar*  
 408 *to any provision of this Code, the summons shall reference the offense using both the citation*  
 409 *corresponding to the county, city, or town ordinance and the specific provision of this Code.*

410 **§ 19.2-310.7. Expungement when DNA taken for a conviction.**

411 A. A person whose DNA profile has been included in the data bank pursuant to § 19.2-310.2 may  
 412 request expungement on the grounds that the conviction on which the authority for including his DNA  
 413 profile was based has been reversed and the case dismissed. Provided that the person's DNA profile is  
 414 not otherwise required to be included in the data bank pursuant to § 9.1-903, 16.1-299.1, 19.2-310.2, or  
 415 19.2-310.2:1, the Department of Forensic Science shall purge all records and identifiable information in  
 416 the data bank pertaining to the person and destroy all samples from the person upon receipt of (i) a  
 417 written request for expungement pursuant to this section and (ii) a certified copy of the court order  
 418 reversing and dismissing the conviction.

419 B. *Entry of an automatic expungement order pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or*  
 420 *19.2-392.11 shall not serve as grounds for expungement of a person's DNA profile or any records in the*  
 421 *data bank relating to that DNA profile.*

422 **§ 19.2-389.3. Marijuana possession; limits on dissemination of criminal history record**  
 423 **information; prohibited practices by employers, educational institutions, and state and local**  
 424 **governments; penalty.**

425 A. Records relating to the arrest, criminal charge, or conviction of a person for a violation of  
 426 § 18.2-250.1, including any violation charged under § 18.2-250.1 that was deferred and dismissed  
 427 pursuant to § 18.2-251, maintained in the Central Criminal Records Exchange shall not be open for

428 public inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
 429 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in  
 430 the preparation of a pretrial investigation report prepared by a local pretrial services agency established  
 431 pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a pre-sentence or post-sentence investigation  
 432 report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing  
 433 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based  
 434 probation services agencies established pursuant to the Comprehensive Community Corrections Act for  
 435 Local Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local responsible  
 436 offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint  
 437 comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System  
 438 computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to  
 439 attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing  
 440 guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time  
 441 employee of the State Police, a police department, or sheriff's office that is a part of or administered by  
 442 the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and  
 443 detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth, for  
 444 purposes of the administration of criminal justice as defined in § 9.1-101; (vii) (iii) to the Virginia  
 445 Criminal Sentencing Commission for research purposes; (viii) (iv) to any full-time or part-time employee  
 446 of the State Police or a police department or sheriff's office that is a part of or administered by the  
 447 Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time  
 448 or part-time employment with, *or to be a volunteer with*, the State Police or a police department or  
 449 sheriff's office that is a part of or administered by the Commonwealth or any political subdivision  
 450 thereof; (ix) (v) to the State Health Commissioner or his designee for the purpose of screening any  
 451 person who applies to be a volunteer with or an employee of an emergency medical services agency as  
 452 provided in § 32.1-111.5; (x) (vi) to any full-time or part-time employee of the Department of Forensic  
 453 Science for the purpose of screening any person for full-time or part-time employment with the  
 454 Department of Forensic Science; (xi) (vii) to the chief law-enforcement officer of a locality, or his  
 455 designee who shall be an individual employed as a public safety official of the locality, that has adopted  
 456 an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person  
 457 who applies to be a volunteer with or an employee of an emergency medical services agency as  
 458 provided in § 32.1-111.5; and (xii) (viii) to any full-time or part-time employee of the Department of  
 459 Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49  
 460 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety  
 461 Administration; (ix) to any employer or prospective employer or its designee where federal law requires  
 462 the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective  
 463 employer or its designee where the position that a person is applying for, or where access to the  
 464 premises in or upon which any part of the duties of such position is performed or is to be performed, is  
 465 subject to any requirement imposed in the interest of the national security of the United States under  
 466 any security program in effect pursuant to or administered under any contract with, or statute or  
 467 regulation of, the United States or any Executive Order of the President; (xi) to any person authorized  
 468 to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for  
 469 purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA  
 470 Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish  
 471 decisions of the Supreme Court and Court of Appeals, subject to the provisions of subsection B of  
 472 § 17.1-323 and subsections B and D of § 17.1-413; (xiv) to any full-time or part-time employee of a  
 473 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the  
 474 House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of  
 475 screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court  
 476 or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee  
 477 where this Code requires the employer to inquire about prior criminal charges or convictions; and (xvi)  
 478 to the person arrested, charged, or convicted of the offense that was automatically expunged.

479 B. An employer or Except as provided in subsection C, agencies, officials, and employees of state  
 480 and local governments, private employers that are not subject to federal regulations in the hiring  
 481 process, and educational institutions shall not, in any application, interview, or otherwise,  
 482 require an applicant for employment or admission to disclose information concerning any arrest, criminal  
 483 charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction  
 484 is not open for public inspection pursuant to subsection A. An applicant need not, in answer to any  
 485 question concerning any arrest, criminal charge, or conviction, include a reference to or information  
 486 concerning any arrest, criminal charge, or conviction when the record relating to such arrest, criminal  
 487 charge, or conviction is not open for public inspection pursuant to subsection A.

488 C. The provisions of subsection B shall not apply if:

489 1. The person is applying for full-time employment or part-time employment with, or to be a



490 volunteer with, the State Police or a police department or sheriff's office that is a part of or  
491 administered by the Commonwealth or any political subdivision thereof;

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

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

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

498 D. Agencies, officials, and employees of the state and local governments shall not, in any  
499 application, interview, or otherwise, require an applicant for a license, permit, registration, or  
500 governmental service to disclose information concerning any arrest, criminal charge, or conviction  
501 against him when the record relating to such arrest, criminal charge, or conviction is not open for public  
502 inspection pursuant to subsection A. An applicant need not, in answer to any question concerning any  
503 arrest, criminal charge, or conviction, include a reference to or information concerning any arrest,  
504 criminal charge, or conviction when the record relating to such arrest, criminal charge, or conviction is  
505 not open for public inspection pursuant to subsection A. Such an application may not be denied solely  
506 because of the applicant's refusal to disclose information concerning any such arrest, criminal charge, or  
507 conviction.

508 E. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a dwelling,  
509 as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest, criminal  
510 charge, or conviction against him when the record relating to such arrest, criminal charge, or  
511 conviction is not open for public inspection pursuant to subsection A. An applicant need not, in answer  
512 to any question concerning any arrest, criminal charge, or conviction, include a reference to or  
513 information concerning arrests, criminal charges, or convictions when the record relating to such arrest,  
514 criminal charge, or conviction is not open for public inspection pursuant to subsection A. Such an  
515 application may not be denied solely because of the applicant's refusal to disclose information  
516 concerning any such arrest, criminal charge, or conviction.

517 D. F. A person who willfully violates subsection B or C, D, or E is guilty of a Class 1 misdemeanor  
518 for each violation.

519 **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace,**  
520 **clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material**  
521 **submitted by other agencies.**

522 A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police  
523 officials of cities and towns, and any other local law-enforcement officer or conservator of the peace  
524 having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange,  
525 on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or  
526 service of process upon, any person on charges resulting from an indictment, presentment or  
527 information, the arrest on capias or warrant for failure to appear, and the service of a warrant for  
528 another jurisdiction, for each charge when any person is arrested on any of the following charges:

529 a. Treason;

530 b. Any felony;

531 c. Any offense punishable as a misdemeanor under Title 54.1;

532 d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar  
533 ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or

534 e. (Effective until July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
535 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632,  
536 63.2-1509, or 63.2-1727.

537 e. (Effective July 1, 2021) Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612,  
538 22.1-289.041, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1,  
539 60.2-632, or 63.2-1509.

540 The reports shall contain such information as is required by the Exchange and shall be accompanied  
541 by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding  
542 photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a  
543 law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the  
544 Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local  
545 law-enforcement agency from maintaining its own separate photographic database. Fingerprints and  
546 photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be  
547 taken at the facility where the magistrate is located, including a regional jail, even if the accused is not  
548 committed to jail.

549 Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal  
550 Records Exchange for those offenses enumerated in this subsection. Only reports received for those

551 *offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.*

552 2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or  
553 § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if  
554 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
555 (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii)  
556 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal,  
557 the court shall remand the individual to the custody of the office of the chief law-enforcement officer of  
558 the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be  
559 the arresting officer, to ensure that such report is completed for each charge after a determination of  
560 guilt or acquittal by reason of insanity. The court shall require the officer to complete the report  
561 immediately following the person's conviction or acquittal, and the individual shall be discharged from  
562 custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him  
563 committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

564 3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a  
565 suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a  
566 report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding  
567 such person in violation of the terms or conditions of a suspended sentence or probation for such felony  
568 offense, the court shall order that the fingerprints and photograph of such person be taken by a  
569 law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

570 4. For any person served with a show cause for any allegation of a violation of the terms or  
571 conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306,  
572 or 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such  
573 person is found to be in violation of the terms or conditions of a suspended sentence or probation for  
574 such felony offense. Upon finding such person in violation of the terms or conditions of a suspended  
575 sentence or probation for such felony offense, the court shall order that the fingerprints and photograph  
576 of such person be taken by a law-enforcement officer for each such offense and submitted to the Central  
577 Criminal Records Exchange.

578 5. If the accused is in custody when an indictment or presentment is found or made, or information  
579 is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such  
580 at the time of first appearance for each indictment, presentment, or information for which a report is  
581 required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and  
582 photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that  
583 has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking  
584 the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each  
585 offense.

586 B. Within 72 hours following the receipt of (i) a warrant or *capias* for the arrest of any person on a  
587 charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the  
588 law-enforcement agency which received the warrant shall enter the person's name and other appropriate  
589 information required by the Department of State Police into the "information systems" known as the  
590 Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant  
591 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC),  
592 maintained by the Federal Bureau of Investigation. The report shall include the person's name, date of  
593 birth, social security number and such other known information which the State Police or Federal  
594 Bureau of Investigation may require. Where feasible and practical, the magistrate or court issuing the  
595 warrant or *capias* may transfer information electronically into VCIN. When the information is  
596 electronically transferred to VCIN, the court or magistrate shall forthwith forward the warrant or *capias*  
597 to the local police department or sheriff's office. When criminal process has been ordered destroyed  
598 pursuant to § 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of  
599 any information relating to the destroyed criminal process from the VCIN and NCIC.

600 B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant  
601 to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his  
602 post-release supervision or probation, the law-enforcement agency that received the written statement  
603 shall enter, or cause to be entered, the person's name and other appropriate information required by the  
604 Department of State Police into the "information systems" known as the Virginia Criminal Information  
605 Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.)  
606 of Title 52.

607 C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or  
608 § 19.2-74, the clerk of each circuit court and district court shall make an electronic report to the Central  
609 Criminal Records Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251,  
610 or 19.2-303.2, indefinite postponement or continuance, charge still pending due to mental incompetency  
611 or incapacity, deferral, *nolle prosequi*, acquittal, or conviction of, including any sentence imposed, or  
612 failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection

613 A, including any action that may have resulted from an indictment, presentment or information, or any  
 614 finding that the person is in violation of the terms or conditions of a suspended sentence or probation  
 615 for a felony offense and (ii) any adjudication of delinquency based upon an act that, if committed by an  
 616 adult, would require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A  
 617 and charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, such electronic  
 618 report by the clerk of each circuit court and district court to the Central Criminal Records Exchange  
 619 may be submitted but shall not be required until (a) a conviction is entered and no appeal is noted or, if  
 620 an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal;  
 621 (b) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c)  
 622 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. The clerk of each circuit court  
 623 shall make an electronic report to the Central Criminal Records Exchange of any finding that a person  
 624 charged on a summons is in violation of the terms or conditions of a suspended sentence or probation  
 625 for a felony offense. ~~In the case of offenses not required to be reported to the Exchange by subsection~~  
 626 ~~A, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making~~  
 627 ~~the arrest with the arrest record required to be maintained by § 15.2-1722.~~ Upon conviction of any  
 628 person, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether  
 629 sentenced as adults or juveniles, for an offense for which registration is required as defined in § 9.1-902,  
 630 the clerk shall within seven days of sentencing submit a report to the Sex Offender and Crimes Against  
 631 Minors Registry. The report to the Registry shall include the name of the person convicted and all  
 632 aliases that he is known to have used, the date and locality of the conviction for which registration is  
 633 required, his date of birth, social security number, and last known address, and specific reference to the  
 634 offense for which he was convicted. No report of conviction or adjudication in a district court shall be  
 635 filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event  
 636 that the records in the office of any clerk show that any conviction or adjudication has been nullified in  
 637 any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry.  
 638 In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court,  
 639 shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the  
 640 case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or  
 641 Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition  
 642 previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall  
 643 report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

644 D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange  
 645 may receive, classify, and file any other fingerprints, photographs, and records of ~~arrest or~~ confinement  
 646 submitted to it by any ~~law-enforcement agency or any~~ correctional institution or the Department of  
 647 Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records  
 648 received by the Central Criminal Records Exchange from any correctional institution or the Department  
 649 of Corrections may be classified and filed as criminal history record information.

650 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining  
 651 correctional status information, as required by the regulations of the Department of Criminal Justice  
 652 Services, with respect to individuals about whom reports have been made under the provisions of this  
 653 chapter shall make reports of changes in correctional status information to the Central Criminal Records  
 654 Exchange. The reports to the Exchange shall include any commitment to or release or escape from a  
 655 state or local correctional facility, including commitment to or release from a parole or probation  
 656 agency.

657 F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to  
 658 the Exchange by the office of the Secretary of the Commonwealth.

659 G. Officials responsible for reporting disposition of charges, and correctional changes of status of  
 660 individuals under this section, including those reports made to the Registry, shall adopt procedures  
 661 reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible  
 662 by the most expeditious means and in no instance later than 30 days after occurrence of the disposition  
 663 or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the  
 664 information.

665 H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records  
 666 Exchange shall notify all criminal justice agencies known to have previously received the information.

667 I. As used in this section:

668 "Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of  
 669 counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by  
 670 appropriate resolution or ordinance, in which case the local designation shall be controlling.

671 "Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal  
 672 Records Exchange in an electronic format approved by the Exchange. The report shall contain the name  
 673 of the person convicted and all aliases which he is known to have used, the date and locality of the

674 conviction, his date of birth, social security number, last known address, and specific reference to the  
 675 offense including the Virginia Code section and any subsection, the Virginia crime code for the offense,  
 676 and the offense tracking number for the offense for which he was convicted.

677 *CHAPTER 23.2.*

678 *AUTOMATIC EXPUNGEMENT OF CRIMINAL RECORDS.*

679 **§ 19.2-392.5. Automatic expungement defined; effect of automatic expungement.**

680 A. As used in this chapter, unless the context requires a different meaning, "automatic expungement"  
 681 means to (i) restrict dissemination of criminal history record information contained in the Central  
 682 Criminal Records Exchange to the purposes set forth in subsection C of § 19.2-392.12 and (ii) prohibit  
 683 dissemination of court records, unless such dissemination is authorized by a court order for one of the  
 684 purposes set forth in subsection C of § 19.2-392.12.

685 B. Records relating to an arrest, criminal charge, or conviction that has been automatically  
 686 expunged may only be disseminated for purposes set forth in subsection C of § 19.2-392.12. The court  
 687 and any law-enforcement agency shall reply to any inquiry that no record exists with respect to an  
 688 arrest, criminal charge, or conviction that has been automatically expunged, unless such information is  
 689 permitted to be disclosed pursuant to subsection C of § 19.2-392.12. A clerk of any court and the  
 690 Executive Secretary of the Supreme Court shall be immune from any cause of action arising from the  
 691 production of expunged court records, including electronic records, absent gross negligence or willful  
 692 misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or  
 693 immunity already existing in statutory or common law or to affect any cause of action accruing prior to  
 694 July 1, 2024.

695 C. Except as provided in subsection D, upon entry of an order for automatic expungement, the  
 696 person who was arrested, criminally charged, or convicted of the offense that was ordered to be  
 697 automatically expunged may deny or not disclose to any state or local government agency or to any  
 698 private employer in the Commonwealth that such an arrest, criminal charge, or conviction occurred. No  
 699 person as to whom an order for automatic expungement has been entered shall be held thereafter under  
 700 any provision of law to be guilty of perjury or otherwise giving a false statement by reason of that  
 701 person's denial or failure to disclose any information concerning an arrest, criminal charge, or  
 702 conviction that has been automatically expunged, unless such denial or failure to disclose is in response  
 703 to a query from an employer under subsection D.

704 D. The person who was the subject of the order of automatic expungement may not deny or fail to  
 705 disclose information to any employer or prospective employer about an offense that has been ordered to  
 706 be automatically expunged if:

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

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

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

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

716 E. An order to automatically expunge an arrest, criminal charge, or conviction entered pursuant to  
 717 § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11 shall not relieve the person who was arrested,  
 718 criminally charged, or convicted of any obligation to pay all fines, costs, forfeitures, penalties, or  
 719 restitution in relation to the offense that was ordered to be automatically expunged.

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

722 **§ 19.2-392.6. Automatic expungement of offenses resulting in a deferred and dismissed disposition  
 723 or conviction.**

724 A. If a person was charged with an offense in violation of § 4.1-305, 18.2-250, or 18.2-250.1, and  
 725 such offense was deferred and dismissed as provided in § 4.1-305 or 18.2-251, such offense shall be  
 726 ordered to be automatically expunged in the manner set forth in § 19.2-392.7, subject to the provisions  
 727 of subsections C and D.

728 B. If a person was convicted of a violation of any misdemeanor or any felony offense in violation of  
 729 the following sections, such conviction shall be ordered to be automatically expunged in the manner set  
 730 forth in § 19.2-392.7, subject to the provisions of subsections C and D: §§ 18.2-60, 18.2-86, 18.2-94,  
 731 18.2-104, 18.2-126, 18.2-127, 18.2-137, 18.2-138, 18.2-145.1, 18.2-151, 18.2-152.3:1, 18.2-156,  
 732 18.2-159, 18.2-165.1, 18.2-250, 18.2-323.02, 18.2-328, 18.2-431.1, 18.2-462, 18.2-468, 18.2-471.1, and  
 733 18.2-477.2.

734 C. Subject to the provisions of subsection D, any offense listed under subsection A and any  
 735 conviction listed under subsection B shall be ordered to be automatically expunged if:

736 1. For an offense that was deferred and dismissed as provided in subsection A, eight years have  
 737 passed since the date of the dismissal and the person charged with the offense has not been convicted of  
 738 violating any law of the Commonwealth that requires a report to the Central Criminal Records  
 739 Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United  
 740 States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period.

741 2. For a misdemeanor conviction of an offense listed in subsection B, eight years have passed since  
 742 the date of the conviction and the person convicted of the offense has not been convicted of violating  
 743 any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under  
 744 subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any  
 745 territory thereof, excluding traffic infractions under Title 46.2, during that time period.

746 3. For a felony conviction of an offense listed in subsection B, eight years have passed since the date  
 747 of the conviction or release from incarceration, whichever date occurred later, and the person convicted  
 748 of the offense has not been convicted of violating any law of the Commonwealth that requires a report  
 749 to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the  
 750 District of Columbia, or the United States or any territory thereof, excluding traffic infractions under  
 751 Title 46.2, during that time period.

752 D. No offense listed under subsection A shall be automatically expunged if, on the date of the  
 753 deferral or dismissal, the person was convicted of another offense that is not eligible for automatic  
 754 expungement under subsection A or B. No conviction listed under subsection B shall be automatically  
 755 expunged if, on the date of the conviction, the person was convicted of another offense that is not  
 756 eligible for automatic expungement under subsection A or B.

757 **§ 19.2-392.7. Process for automatic expungement of offenses resulting in a conviction or deferred**  
 758 **disposition.**

759 A. On a monthly basis, the Department of State Police shall determine which offenses in the Central  
 760 Criminal Records Exchange meet the criteria for automatic expungement set forth in § 19.2-392.6.

761 B. After reviewing the offenses provided under subsection A, the Department of State Police shall  
 762 provide an electronic list of all offenses that meet the criteria for automatic expungement set forth in  
 763 § 19.2-392.6 to the Executive Secretary of the Supreme Court and to any circuit court clerk who  
 764 maintains a case management system that interfaces with the Department of State Police under  
 765 subsection B1 of § 17.1-502.

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

771 D. Upon receipt of the electronic list provided under subsection B or C, on at least a monthly basis  
 772 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
 773 enter such order directing that the offenses that meet the criteria for automatic expungement set forth in  
 774 § 19.2-392.6 be automatically expunged under the process described in § 19.2-392.12. Such order shall  
 775 contain the names of the persons charged with or convicted of such offenses.

776 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
 777 subsection D to the Department of State Police on at least a monthly basis. Upon receipt of such order,  
 778 the Department of State Police shall proceed as set forth in § 19.2-392.12.

779 F. If an offense is automatically expunged contrary to law, the automatic expungement of that  
 780 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
 781 order to automatically expunge such offense.

782 **§ 19.2-392.8. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
 783 **dismissal.**

784 A. If a person is charged with the commission of a criminal offense, excluding traffic infractions  
 785 under Title 46.2, and (i) the person is acquitted, (ii) a nolle prosequi is entered, or (iii) the charge is  
 786 otherwise dismissed, excluding any charge that is deferred and dismissed after a finding of facts  
 787 sufficient to justify a finding of guilt, the court disposing of the matter shall, at the time the acquittal,  
 788 nolle prosequi, or dismissal is entered, order that the charge be automatically expunged under the  
 789 process described in § 19.2-392.12, unless the attorney for the Commonwealth or any other person  
 790 advises the court at the time the acquittal, nolle prosequi, or dismissal is entered that:

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

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

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

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

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

799 6. The person charged with the offense objects to the automatic expungement.

800 B. If the court enters an order pursuant to subsection A, the court shall advise the person charged  
801 that the offense has been ordered to be automatically expunged.

802 C. If an offense is automatically expunged contrary to law, the automatic expungement of that  
803 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
804 order to automatically expunge such offense.

805 **§ 19.2-392.9. Automatic expungement for mistaken identity or unauthorized use of identifying**  
806 **information.**

807 A. If (i) a person is charged or arrested as a result of mistaken identity or (ii) a person's name or  
808 other identification is used without his consent or authorization by another person who is charged or  
809 arrested using such name or identification, and a nolle prosequi is entered or the charge is otherwise  
810 dismissed, the attorney for the Commonwealth or any other person requesting the nolle prosequi or  
811 dismissal shall notify the court of the mistaken identity or unauthorized use of identifying information at  
812 the time such request is made. Upon such notification, the court disposing of the matter shall, at the  
813 time the nolle prosequi or dismissal is entered, order that the charge be automatically expunged under  
814 the process described in § 19.2-392.12, unless the person charged or arrested as a result of the  
815 mistaken identity or unauthorized use of identifying information objects to such automatic expungement.

816 B. If the court enters an order pursuant to subsection A, the court shall advise the person charged  
817 that the offense has been ordered to be automatically expunged.

818 C. If an offense is automatically expunged contrary to law, the automatic expungement of that  
819 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
820 order to automatically expunge such offense.

821 **§ 19.2-392.10. Process for automatic expungement of offenses resulting in acquittal, nolle**  
822 **prosequi, or dismissal.**

823 A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court  
824 clerk who maintains a case management system that interfaces with the Department of State Police  
825 under subsection B1 of § 17.1-502 shall provide an electronic list of all offenses in such case  
826 management system to the Department of State Police that were ordered to be automatically expunged  
827 pursuant to §§ 19.2-392.8 and 19.2-392.9.

828 B. Upon receipt of the electronic lists under subsection A, the Department of State Police shall  
829 proceed as set forth in § 19.2-392.12.

830 **§ 19.2-392.11. Automatic expungement of offenses resulting in acquittal, nolle prosequi, or**  
831 **dismissal for persons with no convictions or deferred and dismissed offenses on their criminal history**  
832 **record.**

833 A. On at least an annual basis, the Department of State Police shall review the Central Criminal  
834 Records Exchange and identify all persons with finalized case dispositions that resulted in (i) an  
835 acquittal, (ii) a nolle prosequi, or (iii) a dismissal, excluding any charge that was deferred and  
836 dismissed after a finding of facts sufficient to justify a finding of guilt, where the criminal history record  
837 of such person contains no convictions for any criminal offense, excluding traffic infractions under Title  
838 46.2. For purposes of this subsection, any offense on the person's criminal history record that has  
839 previously been ordered to be automatically expunged shall not be deemed a conviction.

840 B. Upon identification of the finalized case dispositions under subsection A, the Department of State  
841 Police shall provide an electronic list of such offenses to the Executive Secretary of the Supreme Court  
842 and to any circuit court clerk who maintains a case management system that interfaces with the  
843 Department of State Police under subsection B1 of § 17.1-502.

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

849 D. Upon receipt of the electronic list provided under subsection B or C, on at least an annual basis  
850 the clerk of each circuit court shall prepare an order and the chief judge of that circuit court shall  
851 enter such order directing that the offenses be automatically expunged under the process described in  
852 § 19.2-392.12. Such order shall contain the names of the persons charged with such offenses.

853 E. The clerk of each circuit court shall provide an electronic copy of any order entered under  
854 subsection D to the Department of State Police on at least an annual basis. Upon receipt of such order,  
855 the Department of State Police shall proceed as set forth in § 19.2-392.12.

856 F. If an offense is automatically expunged contrary to law, the automatic expungement of that  
857 particular offense shall be voidable upon motion and notice made within two years of the entry of the  
858 order to automatically expunge such offense.

859 G. If an offense is automatically expunged pursuant to the procedure set forth in this section and  
 860 such offense was not ordered to be automatically expunged at the time of acquittal, nolle prosequi, or  
 861 dismissal for one or more of the reasons set forth in § 19.2-392.8, the automatic expungement of such  
 862 offense shall be voidable upon motion and notice made within two years of the entry of the order to  
 863 automatically expunge such offense.

864 **§ 19.2-392.12. Disposition of records when an offense is automatically expunged; permitted uses of**  
 865 **automatically expunged records.**

866 A. Upon electronic notification that a court order for automatic expungement has been entered  
 867 pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11, the Department of State Police shall  
 868 not disseminate any criminal history record information contained in the Central Criminal Records  
 869 Exchange that relates to the arrest, criminal charge, or conviction that was ordered to be automatically  
 870 expunged, except for purposes set forth in subsection C. Upon receipt of such electronic notification, the  
 871 Department of State Police shall electronically notify those agencies and individuals known to maintain  
 872 or to have obtained such a record that such record has been ordered to be automatically expunged and  
 873 may only be disseminated for purposes set forth in subsection C.

874 B. Upon entry of a court order for automatic expungement pursuant to § 19.2-392.7, 19.2-392.8,  
 875 19.2-392.9, or 19.2-392.11, the Executive Secretary of the Supreme Court and any circuit court clerk  
 876 who maintains a case management system that interfaces with the Department of State Police under  
 877 subsection B1 of § 17.1-502 shall:

878 1. Ensure that the court record of such arrest, criminal charge, or conviction is not available for  
 879 public online viewing as directed by subsections B and C of § 17.1-293.1; and

880 2. Not disseminate any court record of such arrest, criminal charge, or conviction to the public,  
 881 except as provided in subsections D and E.

882 C. Records relating to an arrest, criminal charge, or conviction that was ordered to be automatically  
 883 expunged pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.9, or 19.2-392.11 shall not be open for public  
 884 inspection or otherwise disclosed, provided that such records may be disseminated (i) to make the  
 885 determination as provided in § 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) for  
 886 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information  
 887 System; (iii) to the Virginia Criminal Sentencing Commission for research purposes; (iv) to any full-time  
 888 or part-time employee of the State Police or a police department or sheriff's office that is a part of or  
 889 administered by the Commonwealth or any political subdivision thereof for the purpose of screening any  
 890 person for full-time employment or part-time employment with, or to be a volunteer with, the State  
 891 Police or a police department or sheriff's office that is a part of or administered by the Commonwealth  
 892 or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the  
 893 purpose of screening any person who applies to be a volunteer with or an employee of an emergency  
 894 medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the  
 895 Department of Forensic Science for the purpose of screening any person for full-time or part-time  
 896 employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a  
 897 locality, or his designee who shall be an individual employed as a public safety official of the locality,  
 898 that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of  
 899 screening any person who applies to be a volunteer with or an employee of an emergency medical  
 900 services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the  
 901 Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as  
 902 defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor  
 903 Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where  
 904 federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any  
 905 employer or prospective employer or its designee where the position that a person is applying for, or  
 906 where access to the premises in or upon which any part of the duties of such position is performed or is  
 907 to be performed, is subject to any requirement imposed in the interest of the national security of the  
 908 United States under any security program in effect pursuant to or administered under any contract with,  
 909 or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person  
 910 authorized to engage in the collection of court costs, fines, or restitution under subsection C of  
 911 § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize  
 912 the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to  
 913 publish decisions of the Supreme Court and Court of Appeals, subject to the provisions of subsection B  
 914 of § 17.1-323 and subsections B and D of § 17.1-413; (xiv) to any full-time or part-time employee of a  
 915 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the  
 916 House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of  
 917 screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court  
 918 or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee  
 919 where this Code requires the employer to inquire about prior criminal charges or convictions; and (xvi)

920 to the person arrested, charged, or convicted of the offense that was automatically expunged.

921 D. Upon request from any person to access a court record, the clerk of court shall determine  
922 whether such record is open to public access and inspection. If the clerk of court determines that a  
923 court record has been automatically expunged, such record shall not be provided to the requestor  
924 without an order from the court that entered the order to automatically expunge the court record. Any  
925 order from a court that allows access to a court record that has been automatically expunged shall only  
926 be issued for one or more of the purposes set forth in subsection C. Such order to access a court record  
927 that has been automatically expunged shall allow the requestor to photocopy such court record. No fee  
928 shall be charged to any person filing a motion to access a court record that has been automatically  
929 expunged if the person filing such motion is the same person who was arrested, criminally charged, or  
930 convicted of the offense that was automatically expunged.

931 E. If a pleading or case document in a court record that was automatically expunged is included  
932 among other court records that have not been ordered to be automatically expunged, the clerk of court  
933 shall ensure that such pleading or case document that was ordered to be automatically expunged is  
934 redacted from the court record prior to allowing public access to such court record.

935 F. No charge or conviction that has been automatically expunged may be used to impeach the  
936 credibility of a testifying witness at any hearing or trial.

937 **§ 19.2-392.13. Disclosure of automatically expunged records; penalty.**

938 A. It is unlawful for any person having or acquiring access to an automatically expunged criminal  
939 history or court record, except for a news organization or newsperson engaged in journalism as those  
940 terms are defined in § 19.2-271.5, to disclose such record or any information from such record to  
941 another person, except for the purposes authorized in subsection C of § 19.2-392.12.

942 B. Any person who willfully violates this section is guilty of a Class 1 misdemeanor.

943 **§ 19.2-392.14. Prohibited practices by employers, educational institutions, agencies, etc., of state  
944 and local governments; penalty.**

945 A. Except as provided in subsection B, agencies, officials, and employees of state and local  
946 governments, private employers that are not subject to federal regulations in the hiring process, and  
947 educational institutions shall not, in any application, interview, or otherwise, require an applicant for  
948 employment or admission to disclose information concerning any arrest, criminal charge, or conviction  
949 against him that has been automatically expunged. An applicant need not, in answer to any question  
950 concerning any arrest, criminal charge, or conviction, include a reference to or information concerning  
951 arrests, criminal charges, or convictions that have been automatically expunged.

952 B. The provisions of subsection A shall not apply if:

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

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

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

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

962 C. Agencies, officials, and employees of state and local governments shall not, in any application,  
963 interview, or otherwise, require an applicant for a license, permit, registration, or governmental service  
964 to disclose information concerning any arrest, criminal charge, or conviction against him that has been  
965 automatically expunged. An applicant need not, in answer to any question concerning any arrest,  
966 criminal charge, or conviction, include a reference to or information concerning arrests, criminal  
967 charges, or convictions that have been automatically expunged. Such an application may not be denied  
968 solely because of the applicant's refusal to disclose information concerning any arrest, criminal charge,  
969 or conviction against him that has been automatically expunged.

970 D. No person, as defined in § 36-96.1:1, shall, in any application for the sale or rental of a  
971 dwelling, as defined in § 36-96.1:1, require an applicant to disclose information concerning any arrest,  
972 criminal charge, or conviction against him that has been automatically expunged. An applicant need  
973 not, in answer to any question concerning any arrest, criminal charge, or conviction, include a  
974 reference to or information concerning arrests, criminal charges, or convictions that have been  
975 automatically expunged. Such an application may not be denied solely because of the applicant's refusal  
976 to disclose information concerning any arrest, criminal charge, or conviction against him that has been  
977 automatically expunged.

978 E. A person who willfully violates this section is guilty of a Class 1 misdemeanor for each violation.

979 F. If any entity or person listed under subsection A, C, or D includes a question about a prior  
980 criminal charge or conviction in an application for one or more of the purposes set forth in such  
981 subsections, such application shall include a notice to the applicant that a charge or conviction that has



- 982 *been automatically expunged does not have to be disclosed in the application. Such notice need not be*  
 983 *included on any application for one or more of the purposes set forth in subsection B.*
- 984 **2. That the provisions of §§ 19.2-72, 19.2-74, and 19.2-390 of the Code of Virginia, as amended by**  
 985 **this act, shall become effective on July 1, 2022.**
- 986 **3. That the Department of State Police shall delete all records from the Central Criminal Records**  
 987 **Exchange that were not required to be reported to the Exchange under subdivision A 1 of §**  
 988 **19.2-390 of the Code of Virginia, as amended by this act, by July 1, 2022.**
- 989 **4. That the Attorney General, after consultation with the Committee on District Courts, the**  
 990 **Superintendent of State Police, and the Commissioner of the Department of Motor Vehicles, shall**  
 991 **amend the uniform summons described in § 46.2-388 of the Code of Virginia to reflect the**  
 992 **amendments to the provisions of subsection C of § 19.2-74 of the Code of Virginia, as amended by**  
 993 **this act, by July 1, 2022.**
- 994 **5. That the provisions of §§ 9.1-101, 17.1-293.1, 17.1-323, 17.1-413, 17.1-502, and 19.2-310.7 of the**  
 995 **Code of Virginia, as amended by this act, and Chapter 23.2 (§ 19.2-392.5 et seq.) of Title 19.2 of**  
 996 **the Code of Virginia, as created by this act, shall become effective on July 1, 2025.**
- 997 **6. That the Executive Secretary of the Supreme Court of Virginia, the Department of State Police,**  
 998 **and any circuit court clerk who maintains a case management system that interfaces with the**  
 999 **Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as amended**  
 1000 **by this act, shall automate systems to exchange information as required by §§ 19.2-392.7,**  
 1001 **19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by July 1, 2025.**
- 1002 **7. That the Executive Secretary of the Supreme Court of Virginia shall develop a form for**  
 1003 **requesting and authorizing access to an automatically expunged court record as set forth in section**  
 1004 **D of § 19.2-392.12 of the Code of Virginia, as created by this act, by July 1, 2025.**
- 1005 **8. That the Department of State Police shall purchase Criminal History, Expungement, Master**  
 1006 **Name Index, Rap Back, Civil Commitment, Applicant Tracking, and such other solutions or**  
 1007 **services as may be necessary to implement this act. The purchase of these solutions or services**  
 1008 **shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of**  
 1009 **the Code of Virginia).**
- 1010 **9. That the Virginia State Crime Commission shall consult with stakeholders to determine and**  
 1011 **recommend methods to educate the public on the automatic expungement process and the effects**  
 1012 **of an order to automatically expunge an arrest, criminal charge, or conviction and shall report on**  
 1013 **such recommended methods by December 15, 2022.**
- 1014 **10. That the Executive Secretary of the Supreme Court of Virginia, the Department of State**  
 1015 **Police, and any circuit court clerk who maintains a case management system that interfaces with**  
 1016 **the Department of State Police under subsection B1 of § 17.1-502 of the Code of Virginia, as**  
 1017 **amended by this act, shall each provide a report to the Virginia State Crime Commission on the**  
 1018 **progress of implementing automated systems to exchange information as required by §§ 19.2-392.7,**  
 1019 **19.2-392.10, and 19.2-392.11 of the Code of Virginia, as created by this act, by November 1, 2022,**  
 1020 **and by November 1 of each year thereafter until the automated systems have been fully**  
 1021 **implemented.**
- 1022 **11. That the Department of State Police shall determine the feasibility and cost of implementing an**  
 1023 **automated system to review out-of-state criminal history records and report to the Virginia State**  
 1024 **Crime Commission by November 1, 2022, and by November 1 of each year thereafter until such**  
 1025 **determination has been made.**
- 1026 **12. That the Virginia State Crime Commission shall examine methods to regulate or restrict the**  
 1027 **dissemination of criminal history record information by private entities and provide a report by**  
 1028 **January 12, 2022.**
- 1029 **13. That the Virginia Court Clerks' Association shall determine the necessary staffing and**  
 1030 **technology costs of implementing the provisions of this act and report to the Virginia State Crime**  
 1031 **Commission by November 1, 2022, and by November 1 of each year thereafter until such**  
 1032 **determination has been made.**
- 1033 **14. That the provisions of this act may result in a net increase in periods of imprisonment or**  
 1034 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
 1035 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
 1036 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**  
 1037 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**  
 1038 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**  
 1039 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**