

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-3706 and 2.2-3706.1 and §§ 9.1-101, 9.1-128, 17.1-293.1, 17.1-502,
2 19.2-310.7, 19.2-392.2, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.11 through 19.2-392.14,
3 19.2-392.16, and 19.2-392.17, as they shall become effective, of the Code of Virginia and the third
4 enactment of Chapter 554 and the third enactment of Chapter 555 of the Acts of Assembly of 2023;
5 to amend the Code of Virginia by adding sections numbered 19.2-392.6:1 and 19.2-392.12:1; and
6 to repeal § 17.1-205.1 of the Code of Virginia, relating to criminal records; expungement and
7 sealing of records.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 2.2-3706 and 2.2-3706.1 and §§ 9.1-101, 9.1-128, 17.1-293.1, 17.1-502, 19.2-310.7, 19.2-**
10 **392.2, 19.2-392.5, 19.2-392.6, 19.2-392.7, 19.2-392.11 through 19.2-392.14, 19.2-392.16, and 19.2-**
11 **392.17 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended**
12 **by adding sections numbered 19.2-392.6:1 and 19.2-392.12:1 as follows:**

13 **§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.**

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

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

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

22 3. Records of completed unattended death investigations to the parent or spouse of the decedent
23 or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided
24 the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death"
25 means a death determined to be a suicide, accidental or natural death where no criminal charges will be

26 initiated, and "immediate family" means the decedent's personal representative or, if no personal
27 representative has qualified, the decedent's next of kin in order of intestate succession as set forth in §
28 64.2-200.

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

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

36 2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii)
37 investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments
38 of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter
39 8 of Title 23.1;

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

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

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

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

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

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

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

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

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

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

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

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

77 3. Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-
78 392.10, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-

79 [392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant](#)
80 [to § 9.1-134.](#)

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

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

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

94 **§ 2.2-3706.1. Disclosure of law-enforcement records; criminal incident information and**
95 **certain criminal investigative files; limitations.**

96 A. For purposes of this section:

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

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

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

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

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

- 114 1. A general description of the criminal activity reported;
- 115 2. The date and time the alleged crime was committed;
- 116 3. The general location where the alleged crime was committed;
- 117 4. The identity of the investigating officer or other point of contact; and
- 118 5. A description of any injuries suffered or property damaged or stolen.

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

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

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

- 129 1. The victim;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

182 Upon receipt of notice that a public body has received a request for criminal investigative files
183 pursuant to this section, an individual listed in clause (i), (ii), or (iii) shall have 14 days to file in an

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

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

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

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

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

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

205 2. Any record that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-
206 392.10, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, unless dissemination is authorized pursuant to § 19.2-
207 392.13 and the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant
208 to § 9.1-134.

209 § 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

210 **Definitions.**

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

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

217 "Board" means the Criminal Justice Services Board.

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

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

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

229 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
230 which as its principal function performs the administration of criminal justice and any other agency or
231 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
232 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
233 the context of its criminal justice activities, employs special conservators of the peace appointed under
234 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
235 its officers or special conservators to meet compulsory training standards established by the Criminal
236 Justice Services Board and submits reports of compliance with the training standards and (b) the private
237 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent

238 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
239 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
240 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
241 Violent Predators Act (§ 37.2-900 et seq.).

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

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

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

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

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

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

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

255 "Law-enforcement officer" means any full-time or part-time employee of a police department or
256 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
257 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
258 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
259 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
260 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
261 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
262 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of
263 the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation
264 commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the

265 Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer
266 employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-
267 809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State
268 Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
269 operations of a state or nonstate agency; (xi) employee with internal investigations authority designated
270 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile
271 Justice pursuant to subdivision A 7 of § 66-3; (xii) private police officer employed by a private police
272 department; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to
273 subsection A of § 32.1-320.1. Part-time employees are those compensated officers who are not full-time
274 employees as defined by the employing police department, sheriff's office, or private police department.

275 "Private police department" means any police department, other than a department that employs
276 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
277 authorized by statute or an act of assembly to establish a private police department or such entity's
278 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
279 to operate a private police department or represent that it is a private police department unless such entity
280 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
281 that has been authorized pursuant to this section, provided it complies with the requirements set forth
282 herein. The authority of a private police department shall be limited to real property owned, leased, or
283 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
284 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
285 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
286 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
287 with the private police department that addresses the duties and responsibilities of the private police
288 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
289 departments and private police officers shall be subject to and comply with the Constitution of the United
290 States; the Constitution of Virginia; the laws governing municipal police departments, including the
291 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-

292 1722; and any regulations adopted by the Board that the Department designates as applicable to private
293 police departments. Any person employed as a private police officer pursuant to this section shall meet all
294 requirements, including the minimum compulsory training requirements, for law-enforcement officers
295 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
296 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
297 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
298 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
299 locality. An authorized private police department may use the word "police" to describe its sworn officers
300 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
301 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not
302 otherwise established by statute or an act of assembly and whose status as a private police department was
303 recognized by the Department at that time is hereby validated and may continue to operate as a private
304 police department as may such entity's successor in interest, provided it complies with the requirements
305 set forth herein.

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

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

315 "Sealing" means to prohibit public access to records relating to an arrest, charge, or conviction,
316 including any ancillary matter ordered to be sealed, in the possession of (i) ~~restricting dissemination of~~
317 ~~criminal history record information contained in~~ the Central Criminal Records Exchange, ~~including any~~
318 ~~records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-~~

319 ~~392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted~~
320 ~~pursuant to § 9.1-134 and;~~ (ii) ~~prohibiting dissemination of any~~ court records related to an arrest, charge,
321 ~~or conviction;~~ (iii) any police department, sheriff's office, or campus police department; or (iv) the
322 Department of Motor Vehicles unless ~~such~~ dissemination is authorized ~~by a court order~~ for one or more
323 of the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to §
324 9.1-128 and the procedures adopted pursuant to § 9.1-134.

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

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

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

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

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

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

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

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

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

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

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

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

368 B. Any circuit court clerk may establish and maintain his own case management system, financial
369 management system, or other independent technology using automation or technology improvements
370 provided by a private vendor or the locality. Any data from the clerk's independent system may be
371 provided directly from such clerk to designated state agencies. The data from the clerk's independent

372 system may also be provided to designated state agencies through an interface with the technology systems
373 operated by the Executive Secretary.

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

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

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

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

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

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

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

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

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

413 1. Is acquitted, or

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

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

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

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

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

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

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

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

474 I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-
475 402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall
476 enter an order requiring expungement of the police and court records relating to the charge and conviction.

477 Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon
478 the entry of such order, it shall be treated as provided in subsection K.

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

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

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

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

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

498 **§ 19.2-392.5. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing**
499 **defined; effect of sealing.**

500 A. As used in this chapter, unless the context requires a different meaning, "sealing":
501 "Ancillary matter" means any (i) violation or alleged violation of the terms and conditions of a
502 suspended sentence, probation, or parole; (ii) violation or alleged violation of contempt of court; (iii)
503 charge or conviction for failure to appear; or (iv) appeal from a bail, bond, or recognizance order.

504 "Records related to an arrest, charge, or conviction" means (i) the record of any specific arrest,
505 charge, or conviction that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10,
506 19.2-392.11, 19.2-392.12, or 19.2-392.12:1 or (ii) any ancillary matter that was sealed pursuant to § 19.2-
507 392.12 or 19.2-392.12:1.

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

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

526 C. Records relating to an arrest, charge, or conviction that have been sealed may be disseminated
527 only for purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to §
528 9.1-128 and procedures adopted pursuant to § 9.1-134. ~~The court, except as provided in subsection B of §~~
529 ~~19.2-392.14, and any~~ Any law-enforcement agency shall reply to any inquiry that no record exists with
530 respect to an arrest, charge, or conviction that has been sealed, unless such information is permitted to be

531 disclosed pursuant to § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128
532 and procedures adopted pursuant to § 9.1-134. As provided in subsection B of § 19.2-392.14, a clerk of
533 any court shall reply to any inquiry requesting access to a sealed court record that such court record has
534 been sealed and can only be accessed pursuant to a court order. A clerk of any court and the Executive
535 Secretary of the Supreme Court shall be immune from any cause of action arising from the production of
536 sealed court records, including electronic records, absent gross negligence or willful misconduct. This
537 subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing
538 in statutory or common law or to affect any cause of action accruing prior to the effective date of this
539 section.

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

547 E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8,
548 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1, or the sealing of an offense without the entry of an order
549 pursuant to § 19.2-392.6:1 or 19.2-392.17, may not deny or fail to disclose information to any employer
550 or prospective employer about an offense that has been ordered to be sealed if:

- 551 1. The person is applying for full-time employment or part-time employment with, or to be a
552 volunteer with, the State Police or a police department or sheriff's office that is a part of or administered
553 by the Commonwealth or any political subdivision thereof;
- 554 2. This Code requires the employer to make such an inquiry;
- 555 3. Federal law requires the employer to make such an inquiry;
- 556 4. The position, or access to the premises in or upon which any part of the duties of such position
557 is performed or is to be performed, is subject to any requirement imposed in the interest of the national

558 security of the United States under any security program in effect pursuant to or administered under any
559 contract with, or statute or regulation of, the United States or any Executive Order of the President; or

560 5. The rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to §
561 9.1-134 allow the employer to access such sealed records.

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

564 F. An order to seal an arrest, charge, or conviction entered pursuant to § 19.2-392.7, 19.2-392.8,
565 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1, or the sealing of an offense without the entry of an order
566 pursuant to § 19.2-392.6:1 or 19.2-392.17, shall not relieve the person who was arrested, charged, or
567 convicted of any obligation to pay all fines, costs, forfeitures, penalties, or restitution in relation to the
568 offense that was ordered to be sealed.

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

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

580 I. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8,
581 19.2-392.11, ~~or~~ 19.2-392.12, or 19.2-392.12:1 shall not constitute a barrier crime as defined in § 19.2-
582 392.02, except as otherwise required under federal law.

583 J. A person shall be required to disclose any felony conviction sealed pursuant to § 19.2-392.12
584 for purposes of determining that person's eligibility to be empaneled as a member of a jury. Failure to

585 disclose such conviction, if such failure to disclose was knowing or willful, shall be a ground for
586 prosecution of perjury as provided for in § 18.2-434.

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

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

593 A. If a person was convicted of a violation of any of the following sections with an offense date
594 on or after January 1, 1986, such conviction, including any records relating to such conviction, shall be
595 ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of
596 subsections B and C: a misdemeanor violation of § 18.2-96, or 18.2-103; § 18.2-119, 18.2-120, or 18.2-
597 134; a misdemeanor violation of § 18.2-248.1; or § 18.2-415.

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

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

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

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

612 § 19.2-392.6:1. Sealing of former possession of marijuana offenses without entry of a court
613 order.

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

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

622 **§ 19.2-392.7. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Process for**
623 **automatic sealing of offenses resulting in a conviction or deferred disposition.**

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

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

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

639 [thereof, excluding traffic infractions under Title 46.2, during the seven-year time period set forth in](#)
640 [subsection B of § 19.2-392.6.](#)

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

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

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

655 F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated
656 for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-
657 128 and procedures adopted pursuant to § 9.1-134.

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

661 **§ 19.2-392.11. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Automatic**
662 **sealing of misdemeanor offenses resulting in acquittal, nolle prosequi, or dismissal for persons with**
663 **no convictions or deferred and dismissed offenses on their criminal history record.**

664 A. On at least an annual basis, the Department of State Police shall [electronically](#) review the
665 Central Criminal Records Exchange and identify all persons with finalized misdemeanor case dispositions

666 [with an offense date on or after January 1, 1986](#), that resulted in (i) an acquittal, (ii) a nolle prosequi, or
667 (iii) a dismissal, excluding any charge that was deferred and dismissed after a finding of facts sufficient
668 to justify a finding of guilt, where the criminal history record of such person contains no convictions for
669 any criminal offense for a violation of any law of the Commonwealth that requires a report to the Central
670 Criminal Records Exchange under subsection A of § 19.2-390 and where such criminal history record
671 contains no arrests or charges for a violation of any law of the Commonwealth that requires a report to the
672 Central Criminal Records Exchange under subsection A of § 19.2-390 in the past three years, excluding
673 traffic infractions under Title 46.2. For purposes of this subsection, any offense on the person's criminal
674 history record that has previously been ordered to be sealed shall not be deemed a conviction.

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

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

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

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

694 F. Any order to seal issued pursuant to this section shall be sealed and may only be disseminated
695 for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-
696 128 and procedures adopted pursuant to § 9.1-134.

697 G. This section shall not be construed as prohibiting a person from seeking expungement in the
698 circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section
699 shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of §
700 19.2-392.2.

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

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

708 **§ 19.2-392.12. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Sealing of**
709 **offenses resulting in a deferred and dismissed disposition or conviction by petition.**

710 A. Except ~~for a conviction or deferral and dismissal of a violation of § 18.2-36.1, 18.2-36.2, 18.2-~~
711 ~~51.4, 18.2-51.5, 18.2-57.2, 18.2-266, or 46.2-341.24 as provided in subsection L,~~ a person who has been
712 convicted of or had a charge deferred and dismissed for a (i) misdemeanor ~~offense~~, (ii) Class 5 or 6 felony,
713 or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of
714 larceny and punished as provided in § 18.2-95, where the offense date for such misdemeanor or felony
715 was on or after January 1, 1986, may file a petition setting forth the relevant facts and requesting sealing
716 of the criminal history record information and court records ~~relating related~~ to the charge or conviction,
717 ~~provided that such person has (a) never been convicted of a Class 1 or 2 felony or any other felony~~

718 ~~punishable by imprisonment for life, (b) not been convicted of a Class 3 or 4 felony within the past 20~~
719 ~~years, and (c) not been convicted of any other felony within the past 10 years of his petition. In addition~~
720 ~~to requesting the sealing of a charge or conviction, such petition may also request the sealing of any~~
721 ~~specifically identified ancillary matter related to such charge or conviction.~~

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

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

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

749 E. In addition to the filing of the petition under subsection C, the petitioner shall request that the
750 Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and
751 national criminal history record to the circuit court in which the petition was filed. Upon receiving such
752 request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit
753 court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the
754 circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon
755 completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within
756 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the
757 Commonwealth notes an appeal to the Supreme Court of Virginia as provided by law in civil cases.

758 F. After receiving the criminal history record of the petitioner, the court may conduct a hearing on
759 the petition. The court shall enter an order requiring the sealing of the criminal history record information
760 and court records, including electronic records, ~~relating~~ related to the charge or conviction, only if the
761 court finds that all criteria in subdivisions 1 through ~~4~~ 5 are met, as follows:

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

766 2. During a period after the date of (i) dismissal of a deferred charge, (ii) conviction, ~~or~~ (iii) release
767 from incarceration ~~or~~ on the charge or conviction set forth in the petition, (iv) a finding that the person
768 was in violation of a suspended sentence, probation, or parole related to the charge or conviction set forth
769 in the petition, or (v) release from incarceration following a finding that the person was in violation of
770 a suspended sentence, probation, or parole related to the charge or conviction set forth in the petition,

771 whichever date occurred later, the ~~person~~ petitioner has not been convicted of violating any law of the
772 Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of §
773 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof,
774 excluding traffic infractions under Title 46.2, for:

775 a. Seven years for any misdemeanor offense; or

776 b. Ten years for any felony offense;

777 ~~2-3.~~ If the records relating to the offense indicate that the occurrence leading to the deferral or
778 conviction involved the use or dependence upon alcohol or any narcotic drug or any other self-
779 administered intoxicant or drug of whatsoever nature, the petitioner has demonstrated his rehabilitation;

780 ~~3-4.~~ The petitioner has not previously obtained the sealing of two other deferrals or convictions
781 arising out of different sentencing events under this section; and

782 ~~4-5.~~ The continued existence and possible dissemination of information relating to the charge or
783 conviction of the petitioner causes or may cause circumstances that constitute a manifest injustice to the
784 petitioner.

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

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

792 I. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order
793 under seal and shall cause an electronic notification of such order to be forwarded to the Department of
794 State Police. Such electronic notification shall contain the petitioner's full name, date of birth, sex, race,
795 and social security number, if available, and the full name used by the petitioner at the time of arrest or
796 summons, as well as the petitioner's state identification number from the criminal history record, the court
797 case number of the charge ~~or~~ conviction, or ancillary matter to be sealed, if available, and the document

798 control number, if available. Upon receipt of such electronic notification, the Department of State Police
799 shall seal such records in accordance with § 19.2-392.13. When sealing such charge ~~or~~, conviction, or
800 ancillary matter, the Department of State Police shall include a notation on the criminal history record that
801 such offense was sealed pursuant to this section. The Department of State Police shall also electronically
802 notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals
803 known to maintain or to have obtained such a record that such record has been ordered to be sealed and
804 may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations
805 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

806 ~~J. Costs shall be as provided by § 17.1-275 but shall not be recoverable against the Commonwealth.~~
807 ~~Any costs collected pursuant to this section shall be deposited in the Sealing Fee Fund created pursuant to~~
808 ~~§ 17.1-205.1.~~

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

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

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

824 ~~N. A conviction or deferral and dismissal of § 18.2-36.1, 18.2-36.2, 18.2-51.4, 18.2-51.5, 18.2-~~
825 ~~57.2, 18.2-266, or 46.2-341.24 is~~L. The following offenses are ineligible for the sealing of records under
826 this section:

827 1. Section 4.1-309.1; a felony violation of § 5.1-13; §§ 18.2-36.1 and 18.2-36.2; subsection A of
828 § 18.2-49.1; and §§ 18.2-51.5, 18.2-57.2, 18.2-57.3, 18.2-59.1, 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-
829 144, 18.2-144.1, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-282.1, 18.2-324.2, 18.2-346, 18.2-346.01, 18.2-
830 347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-356.1, 18.2-361.01, 18.2-369, 18.2-370.01, 18.2-370.2, 18.2-
831 370.3, 18.2-370.4, 18.2-370.5, 18.2-371, 18.2-371.1, 18.2-374, 18.2-375, 18.2-376, 18.2-376.1, 18.2-377,
832 18.2-378, 18.2-379, 18.2-381, 18.2-386.2, 18.2-387, 18.2-387.1, 18.2-405, 18.2-406, 18.2-472.1, 29.1-
833 738, 29.1-738.02, 29.1-738.2, 37.2-912, 40.1-100.2, 40.1-103, 46.2-341.24, and 46.2-341.26:3;

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

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

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

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

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

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

842 8. Any violation involving the possession and distribution of flunitrazepam pursuant to § 18.2-
843 251.2;

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

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

847 11. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory
848 before the fact, or accessory after the fact where the completed substantive offense would be punishable
849 as a Class 1, 2, 3, or 4 felony or by a term of imprisonment of more than 10 years, with the exception of a

850 violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and
851 punished as provided in § 18.2-95.

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

855 **§ 19.2-392.12:1. Sealing of charges and convictions related to automatic sealing; petition.**

856 A. A person who has been convicted of or had a charge deferred and dismissed for a violation of
857 § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or 18.2-
858 134; a misdemeanor violation of § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a violation
859 of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file a
860 petition setting forth the relevant facts and requesting the sealing of the criminal history record information
861 and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or
862 conviction, such petition may also request the sealing of any specifically identified ancillary matter related
863 to such charge or conviction.

864 B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7 or
865 19.2-392.11 where the offense date for such conviction or offense was on or after January 1, 1986, or who
866 had an offense sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition
867 setting forth the relevant facts and requesting sealing of the criminal history record information and court
868 records of any specifically identified ancillary matter related to that charge or conviction.

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

871 D. The petition under subsection A or B, with a copy of the warrant, summons, or indictment, if
872 reasonably available, shall be filed in the circuit court of the county or city in which the case was disposed
873 of and shall contain, except when not reasonably available, (i) the date of arrest; (ii) the name of the
874 arresting agency; (iii) the date of conviction, deferred dismissal, or final disposition of any ancillary
875 matter; and (iv) the case number associated with each court record that is the subject of the petition. When
876 this information is not reasonably available, the petition shall state the reason for such unavailability. The

877 petition shall further state (a) the charge, conviction, or ancillary matter to be sealed; (b) the date of final
878 disposition of the charge, conviction, or ancillary matter as set forth in the petition; (c) the petitioner's date
879 of birth, sex, race, and social security number, if available; and (d) the full name used by the petitioner at
880 the time of arrest or summons. A petition may request the sealing of the criminal history record
881 information and court records for multiple charges, convictions, or ancillary matters as set forth in
882 subsections A and B, provided that all such charges, convictions, and ancillary matters are eligible for
883 sealing under this section. A petition may not request the sealing of the criminal history record information
884 and court records where the charge, conviction, or ancillary matter was finalized on the same date as a
885 conviction or deferred dismissal that is not eligible for sealing under this section.

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

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

894 G. In addition to the filing of the petition under subsection D, the petitioner shall request that the
895 Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia and
896 national criminal history record to the circuit court in which the petition was filed. Upon receiving such
897 request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit
898 court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the
899 circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court. Upon
900 completion of the hearing, the court shall cause the criminal history record to be destroyed unless, within
901 30 days of the date of the entry of the final order in the matter, the petitioner or the attorney for the
902 Commonwealth notes an appeal as provided by law in civil cases.

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

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

912 J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary
913 matter if the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1,
914 19.2-392.7, or 19.2-392.11.

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

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

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

929 and individuals known to maintain or to have obtained such a record that such record has been ordered to
930 be sealed and may only be disseminated in accordance with § 19.2-392.13.

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

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

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

941 **§ 19.2-392.13. (For effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Disposition of**
942 **records when an offense is sealed; permitted uses of sealed records.**

943 A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-
944 392.7, ~~19.2-392.8~~ 19.2-392.10, 19.2-392.11, ~~or 19.2-392.12~~, or 19.2-392.12:1, or upon the sealing of an
945 offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, the Department of State Police
946 shall not disseminate any criminal history record information contained in the Central Criminal Records
947 Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed,
948 except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to §
949 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the
950 Department of State Police shall electronically notify those agencies and individuals known to maintain
951 or to have obtained such a record that such record has been ordered to be sealed and may only be
952 disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant
953 to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are
954 transformed or transferred by whatever means to an offline system or to a confidential and secure area

955 inaccessible from normal use within the system in which the record is maintained shall be considered
956 sealed, provided that such records are accessible only to the manager of the records or their designee.

957 B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~
958 19.2-392.12, or 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-
959 392.6:1 or 19.2-392.17, the Executive Secretary of the Supreme Court and any circuit court clerk who
960 maintains a case management system that interfaces with the Department of State Police under subsection
961 B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for
962 public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of
963 such an order for sealing, the clerk of the court shall not disseminate any court record of such arrest,
964 charge, or conviction, except as provided in subsections D and E.

965 C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to §
966 19.2-392.7, 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense
967 without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, shall not be open for public inspection or
968 otherwise disclosed, provided that such records may be disseminated and used for the following purposes:
969 (i) to make the determination as provided in § 18.2-308.2:2 or through the National Instant Criminal
970 Background Check System of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison
971 utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia
972 Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit
973 and Review Commission for research purposes; (iv) to any full-time or part-time employee of the State
974 Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or
975 any political subdivision thereof for the purpose of screening any person for full-time employment or part-
976 time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office
977 that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State
978 Health Commissioner or his designee for the purpose of screening any person who applies to be a
979 volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi)
980 to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening
981 any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the

982 chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a
983 public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and
984 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an
985 emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time
986 employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical
987 examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal
988 Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where
989 federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any
990 employer or prospective employer or its designee where the position that a person is applying for, or where
991 access to the premises in or upon which any part of the duties of such position is performed or is to be
992 performed, is subject to any requirement imposed in the interest of the national security of the United
993 States under any security program in effect pursuant to or administered under any contract with, or statute
994 or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized
995 to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes
996 of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and
997 Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the
998 Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a
999 court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the
1000 House and Senate Committees for Courts of Justice for the purpose of screening any person for full-time
1001 or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive
1002 Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local
1003 ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any
1004 employer or prospective employer or its designee that is allowed access to such sealed records in
1005 accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant
1006 to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii)
1007 to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the
1008 accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating,

1009 and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as
1010 authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized
1011 by law; (xxi) to the Department of Social Services or any local department of social services for purposes
1012 of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating
1013 to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney
1014 for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the
1015 provisions of § 19.2-392.12, whether the court or parties failed to strictly comply with sealing procedures,
1016 or whether an order for sealing was entered contrary to law; (xxiv) to determine a person's eligibility to
1017 be empaneled as a juror; ~~and~~ (xxv) to the Auditor of Public Accounts for audit purposes; (xxvi) to the
1018 Department of Behavioral Health and Developmental Services and any entity defined under § 37.2-100
1019 for purposes of providing any services or functions as defined in such section; and (xxvii) to the person
1020 arrested, charged, or convicted of the offense that was sealed.

1021 C1. In addition to the purposes set forth in subsection C, a sealed record may be disseminated
1022 without a court order within or between any department, division, board, bureau, commission, branch,
1023 authority or other agency created by the Commonwealth, or to which the Commission is a party or any
1024 political subdivision thereof, or with any federal agency, for the purpose of administering any duties or
1025 functions required by state or federal law. Nothing in this subsection shall authorize a business screening
1026 service to allow dissemination of a sealed record due to its continued existence in any such record.

1027 D. Upon request from any person to access a paper or a digital image of a court record, the clerk
1028 of the court shall determine whether such record is open to public access and inspection. If the clerk of
1029 the court determines that the court record has been sealed, such record shall not be provided to the
1030 requestor without an order from the court that entered the order to seal the court record or from the court
1031 in which the final disposition was entered if the offense was sealed without the entry of a court order. Any
1032 order from a court that allows access to a paper or a digital image of a court record that has been sealed
1033 shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper
1034 or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court
1035 record. No fee shall be charged to any person filing a motion to access a paper or a digital image of a court

1036 record that has been sealed if the person filing such motion is the same person who was arrested, charged,
1037 or convicted of the offense that was sealed.

1038 E. No access shall be provided to electronic records in an appellate court, circuit court, or district
1039 court case management system or other system containing electronic case information maintained by the
1040 Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the
1041 circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7,
1042 19.2-392.8, 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without a court
1043 order pursuant to § 19.2-392.6:1 or 19.2-392.17, except to (i) the Virginia Criminal Sentencing
1044 Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review
1045 Commission for research purposes; (ii) the Auditor of Public Accounts for audit purposes; (iii) any person
1046 authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349
1047 for the purposes of collection of such court costs, fines, or restitution; and (iv) any person authorized to
1048 submit a request for payment to the Office of the Executive Secretary of the Supreme Court for services
1049 provided in a criminal case. ~~Such electronic~~ Electronic records may be disseminated ~~to the Virginia~~
1050 ~~Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit~~
1051 ~~and Review Commission~~ as authorized in this subsection without a court order.

1052 F. If a pleading or case document in a court record that was sealed is included among other court
1053 records that have not been ordered to be sealed, the clerk of the court shall not be required to prohibit
1054 dissemination of that record. ~~The Supreme Court, Court of Appeals, and any~~ If an appellate court record
1055 contains court records that have been sealed, with or without a court order, and court records that have not
1056 been sealed, the clerk of the Supreme Court or Court of Appeal shall not be required to prohibit
1057 dissemination of such appellate record. Any circuit court shall not be required to prohibit dissemination
1058 of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be
1059 sealed. The Supreme Court and Court of Appeals shall not be required to prohibit dissemination of any (i)
1060 published or unpublished opinion, order, or summary of a case; (ii) court records for matters in which the
1061 Supreme Court or Court of Appeals has original jurisdiction; or (iii) appellate court record of a traffic
1062 infraction under Title 46.2 that is not punishable as a criminal offense relating to an arrest, charge, or

1063 conviction that was sealed. A clerk of the court shall not be required to redact information pertaining to a
1064 court record that has been sealed in any reports or electronic transmissions of case information that are
1065 required by statute or prepared and distributed to a state or local government entity in the normal course
1066 of business. Nothing in this subsection shall authorize a business screening service to allow dissemination
1067 of a sealed record due to its continued existence in any appellate record.

1068 G. The clerk of any circuit court shall not be required to redact any sealed record contained in (i)
1069 an order book or order book index; (ii) a land record, as defined in subsection B of § 17.1-292; or (iii) on
1070 microfilm or microfiche. The clerk of any circuit court shall not be required to redact or seal any paper
1071 record for an offense that has been sealed pursuant to § 19.2-392.6:1 or 19.2-392.17. The clerk of any
1072 circuit court who physically removes the paper record of the primary case file for any other charge or
1073 conviction that has been sealed and maintains that file in a physically secure location that is not accessible
1074 to the public shall be in compliance with the requirement to seal the paper record. For the purposes of this
1075 subsection, the primary case file includes the indictment or warrant and any other papers relating to any
1076 proceedings on such indictment or warrant. Nothing in this subsection shall authorize a business screening
1077 service to allow dissemination of a sealed record due to its continued existence in any such record.

1078 H. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred
1079 and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal
1080 regulatory record retention requirements or (ii) in violation of federal program requirements if the
1081 Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a
1082 conviction or deferral and dismissal ordered to be sealed. Upon receipt of an electronic notification of an
1083 order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the
1084 federal regulatory record retention period has run and all federal program requirements associated with a
1085 suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense
1086 pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the
1087 Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting
1088 sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time
1089 when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d)

1090 notify the Department of State Police when such record has been sealed within the Department of Motor
1091 Vehicles' records.

1092 I. The Library of Virginia shall not be required to seal any court records in its possession, provided
1093 that such records are not accessible or disseminated to the public.

1094 H-J. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility
1095 of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and
1096 circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party
1097 reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

1098 I-K. The provisions of this section shall not prohibit the disclosure of sealed criminal history
1099 record information or any information from such records among law-enforcement officers and attorneys
1100 when such disclosures are made by such officers or attorneys while engaged in the performance of their
1101 duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment
1102 evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

1103 **§ 19.2-392.14. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
1104 **Disclosure of sealed records; penalty.**

1105 A. It is unlawful for any person having or acquiring access to sealed criminal history record
1106 information or a court record, including any records relating to an arrest, charge, or conviction, that was
1107 ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~or~~ 19.2-392.12, or
1108 19.2-392.12:1, or that was sealed without entry of a court order pursuant to § 19.2-392.6:1 or 19.2-392.17,
1109 to disclose such record or any information from such record to another person, except in accordance with
1110 the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-
1111 128 and the procedures adopted pursuant to § 9.1-134.

1112 B. A clerk of the court shall not be in violation of this section if such clerk informs a person
1113 requesting access to a sealed court record that such court record has been sealed and can only be accessed
1114 pursuant to a court order.

1115 C. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. Any person
1116 who maliciously and intentionally violates this section is guilty of a Class 6 felony.

1117 § 19.2-392.16. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

1118 **Dissemination of criminal history records and traffic history records by business screening services.**

1119 A. For the purposes of this section:

1120 "Business screening service" means a person engaged in the business of collecting, assembling,
1121 evaluating, or disseminating Virginia criminal history records or traffic history records on individuals.

1122 "Business screening service" does not include any government entity or the news media.

1123 "Criminal history record" means any information collected by a business screening service on
1124 individuals containing any personal identifying information, photograph, or other identifiable descriptions
1125 pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal
1126 criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional
1127 supervision, or release.

1128 "Delete" means that a criminal history record or a traffic history record shall not be disseminated
1129 in any manner, except to any entity authorized to receive and use such information pursuant to § 19.2-
1130 392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted
1131 pursuant to § 9.1-134, but may be retained in order to resolve any disputes relating to this section, the
1132 accuracy of the record consistent with the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or
1133 the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq.

1134 "Sealed possession of marijuana record" means any criminal or civil offense that concluded with
1135 any final disposition as a charge or conviction of former § 18.2-250.1 which has been sealed without the
1136 entry of a court order pursuant to § 19.2-392.6:1.

1137 "Sealed record" means a Virginia criminal history record or a traffic history record that has been
1138 sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~or~~ 19.2-392.12, 19.2-392.12:1, or
1139 19.2-392.17.

1140 "Traffic history record" means any information collected by a business screening service on
1141 individuals containing any personal identifying information, photograph, or other identifiable descriptions
1142 pertaining to an individual and any information regarding arrests, detentions, indictments, or other formal
1143 traffic infraction charges, and any disposition arising therefrom.

1144 B. If a business screening service knows that a criminal history record or a traffic history record
1145 ~~has been~~ is a sealed record or a sealed possession of marijuana record, regardless of the source of the
1146 record, the business screening service shall promptly delete the record.

1147 C. A business screening service shall register with the Department of State Police to electronically
1148 receive ~~copies~~ notifications of orders of sealing provided to the Department of State Police pursuant to §§
1149 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~and~~ 19.2-392.12, and 19.2-392.12:1. The Department
1150 of State Police may charge an annual licensing fee to the business screening service for accessing such
1151 information, with ~~a portion of~~ such fee to be used to cover the cost of providing such records ~~and the~~
1152 ~~remainder of such fee to be deposited into the Sealing Fee Fund pursuant to § 17.1-205.1~~. The contract
1153 between the Department of State Police and the business screening service shall prohibit dissemination of
1154 the electronic notifications of the orders of sealing and shall require compliance by the business screening
1155 service with the provisions of subsections D, E, and F. The electronic notifications of the orders of sealing
1156 received by the business screening service and all information contained therein shall remain confidential
1157 and shall not be disseminated or resold. The electronic notifications of the orders of sealing shall be used
1158 for the sole purpose of deleting criminal history records that have been sealed. The business screening
1159 service shall ~~destroy~~ delete the ~~copies~~ electronic notifications of the orders of sealing after deleting the
1160 information contained in such orders from sealed records. The Department of State Police shall require
1161 that the business screening service seeking access to the information identify themselves, certify the
1162 purposes for which the information is sought, and certify that the information will be used for no other
1163 purpose. The Department of State Police shall further require that a business screening service
1164 acknowledge receipt of all electronic ~~copies~~ notifications of orders of sealing provided by the Department
1165 of State Police. The Department of State Police shall maintain and publicly post a ~~public~~ list ~~within~~ on its
1166 website identifying the business screening services that are licensed to receive such records.

1167 D. A business screening service that disseminates a criminal history record or a traffic history
1168 record on or after the effective date of this section shall include the date when the record was collected by
1169 the business screening service and a notice that the information may include records that have been sealed
1170 since that date.

1171 E. A business screening service shall implement and follow reasonable procedures to assure that
1172 it does not maintain or sell criminal history records or traffic history records that are inaccurate or
1173 incomplete. If the completeness or accuracy of a criminal history record or traffic history record
1174 maintained by a business screening service is disputed by the individual who is the subject of the record,
1175 the business screening service shall, without charge, investigate the disputed record. If, upon investigation,
1176 the business screening service determines that the record does not accurately reflect the content of the
1177 official record, the business screening service shall correct the disputed record so as to accurately reflect
1178 the content of the official record. If the disputed record is found to have been sealed pursuant to § 19.2-
1179 392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, ~~or 19.2-392.12~~, 19.2-392.12:1, or 19.2-392.17,
1180 the business screening service shall promptly delete the record. A business screening service may
1181 terminate an investigation of a disputed record if the business screening service reasonably determines
1182 that the dispute is frivolous, which may be based on the failure of the subject of the record to provide
1183 sufficient information to investigate the disputed record. Upon making a determination that the dispute is
1184 frivolous, the business screening service shall inform the subject of the record of the specific reasons why
1185 it has determined that the dispute is frivolous and shall provide a description of any information required
1186 to investigate the disputed record. The business screening service shall notify the subject of the disputed
1187 record of the correction or deletion of the record or of the termination or completion of the investigation
1188 related to the record within 30 days of the date when the business screening service receives notice of the
1189 dispute from the subject of the record.

1190 F. A business screening service shall implement procedures for individuals to submit a request to
1191 obtain their own criminal history record and traffic history record information maintained by the business
1192 screening service and any other information that may be sold to another entity by the business screening
1193 service regarding the individual.

1194 G. A business screening service that violates this section is liable to the person who is the subject
1195 of the criminal history record or traffic history record for a penalty of \$1,000 or actual damages caused by
1196 the violation, whichever is greater, plus costs and reasonable attorney fees. Within 10 days of service of
1197 any suit by an individual, the business screening service may make a cure offer in writing to the individual

1198 claiming to have suffered a loss as a result of a violation of this section. Such offer shall be in writing and
1199 include one or more things of value, including the payment of money. A cure offer shall be reasonably
1200 calculated to remedy a loss claimed by the individual, as well as any attorney fees or other fees, expenses,
1201 or other costs of any kind that such individual may incur in relation to such loss. No cure offer shall be
1202 admissible in any proceeding initiated under this section, unless the cure offer is delivered by the business
1203 screening service to the individual claiming loss or to any attorney representing such individual prior to
1204 the filing of the business screening service's initial responsive pleading in such proceeding. The business
1205 screening service shall not be liable for such individual's attorney fees and court costs incurred following
1206 delivery of the cure offer unless the actual damages found to have been sustained and awarded, without
1207 consideration of attorney fees and court costs, exceed the value of the cure offer.

1208 H. The Attorney General may file a civil action to enforce this section. If the court finds that a
1209 business screening service has willfully engaged in an act or practice in violation of this section, the
1210 Attorney General may recover for the Literary Fund, upon petition to the court, a civil penalty of not more
1211 than \$2,500 per violation. For the purposes of this section, prima facie evidence of a willful violation may
1212 be shown when the Attorney General notifies the alleged violator by certified mail that an act or practice
1213 is a violation of this section and the alleged violator, after receipt of said notice, continues to engage in
1214 the act or practice. In any civil action pursuant to this subsection, in addition to any civil penalty awarded,
1215 the Attorney General may also recover any costs and reasonable expenses incurred by the state in
1216 investigating and preparing the case, not to exceed \$1,000 per violation, and attorney fees. Such additional
1217 costs and expenses shall be paid into the general fund of the Commonwealth.

1218 I. A business screening service that disseminates criminal history records or traffic history records
1219 in the Commonwealth is deemed to have consented to service of process in the Commonwealth and to the
1220 jurisdiction of courts of the Commonwealth for actions involving a violation of this section or for the
1221 recovery of remedies under this section.

1222 J. A business screening service that is a consumer reporting agency and that is in compliance with
1223 the applicable provisions of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., or the Gramm-
1224 Leach-Bliley Act, 15 U.S.C. § 6801 et seq., is considered to be in compliance with the comparable

1225 provisions of this section. A business screening service is subject to the state remedies under this section
1226 if its actions would violate this section and federal law.

1227 K. Any business screening service or person who engages in the conduct of a business screening
1228 service, as set forth in this section, that fails to register with the Department of State Police as required
1229 by subsection C and that disseminates criminal history records or traffic history records in the
1230 Commonwealth may be subject to (i) suit by any person injured by such dissemination and (ii)
1231 enforcement actions by the Attorney General as set forth in subsection H.

1232 L. Nothing in this section shall prohibit the prosecution of any person who willfully violates the
1233 provisions of § 19.2-392.14.

1234 **§ 19.2-392.17. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**
1235 **Traffic infractions deemed sealed.**

1236 A. ~~Any~~ Except as provided in subsection F of § 19.2-392.13, any record of a traffic infraction
1237 under Title 46.2 with an offense date on or after January 1, 1986, that is not punishable as a criminal
1238 offense shall be deemed to be sealed after 11 years from the date of final disposition of the offense, unless
1239 such sealing is prohibited under federal or state law. The Central Criminal Records Exchange, any court,
1240 any law-enforcement agency, and the Department of Motor Vehicles shall identify and seal the records of
1241 any such infraction in its possession. No record of any such traffic infraction shall be disseminated, unless
1242 such dissemination is authorized pursuant to § 19.2-392.13 and pursuant to the rules and regulations
1243 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

1244 B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in
1245 violation of federal regulatory record retention requirements or (ii) in violation of federal program
1246 requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as
1247 a result of the traffic infraction that was ~~ordered to be deemed~~ sealed pursuant to subsection A. ~~Upon~~
1248 ~~receipt of an order directing that a traffic infraction be sealed, the~~ The Department of Motor Vehicles shall
1249 seal all records deemed to be sealed pursuant to subsection A if the federal regulatory record retention
1250 period has run and all federal program requirements associated with a suspension have been satisfied.
1251 ~~However, if the Department of Motor Vehicles cannot seal a traffic infraction pursuant to this subsection~~

1252 ~~at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police~~
1253 ~~of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered;~~
1254 ~~(b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on~~
1255 ~~which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State~~
1256 ~~Police when such record has been sealed within the Department of Motor Vehicles' records.~~

1257 C. The Department of Motor Vehicles shall not seal a record of a traffic infraction if a customer is
1258 subject to an administrative suspension order issued pursuant to Driver Improvement Program
1259 requirements under § 46.2-498, 46.2-499, or 46.2-506, issued in part or in whole, as a result of an
1260 accumulation of traffic infractions, and less than two years has passed since the date that the suspension
1261 order was complied with.

1262 **2. That the Department of State Police shall develop a secure portal for the purpose of allowing**
1263 **government agencies to determine whether a record has been sealed prior to responding to a request**
1264 **under § 2.2-3706 or 2.2-3706.1 of the Code of Virginia, as amended by this act, by October 1, 2026.**

1265 **3. That the Virginia Indigent Defense Commission shall (i) create a curriculum to educate both**
1266 **attorneys and others on expungement and sealing, (ii) conduct trainings across the Commonwealth**
1267 **throughout the year, (iii) provide expungement and sealing support by serving on a help desk and**
1268 **providing consultations, and (iv) develop a library of resources on expungement and sealing for use**
1269 **by certified court-appointed counsel.**

1270 **4. That § 17.1-205.1 of the Code of Virginia is repealed, and that any money in the Sealing Fee Fund**
1271 **created in such section shall revert to the general fund.**

1272 **5. That §§ 19.2-392.6:1 and 19.2-392.12:1 of the Code Virginia, as created by this act, and any**
1273 **references thereto shall become effective on July 1, 2026.**

1274 **6. That the third enactment of Chapter 554 and the third enactment of Chapter 555 of the Acts of**
1275 **Assembly of 2023 are amended and reenacted as follows:**

1276 **3. That § 19.2-389.3 of the Code of Virginia is repealed**~~effective on the earlier of (i) the date~~
1277 ~~on which the processes to seal criminal history record information and court records pursuant to~~

1278 ~~Chapters 524 and 542 of the Acts of Assembly of 2021, Special Session I, become effective~~ **or (ii) July**
1279 **1, ~~2025~~ 2026.**

1280 **7. That the Department of State Police, Department of Motor Vehicles, Office of the Executive**
1281 **Secretary of the Supreme Court of Virginia, and clerk of any circuit court shall provide data and**
1282 **information on sealing upon request of the Virginia State Crime Commission for purposes of**
1283 **monitoring and evaluating the implementation and impact of the sealing processes.**

1284 #