

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

1 **§ 19.2-389. (Effective until January 1, 2027) Dissemination of criminal history record**
2 **information.**

3 A. Criminal history record information shall be disseminated, whether directly or through an
4 intermediary, only to:

5 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
6 purposes of the administration of criminal justice and the screening of an employment
7 application or review of employment by a criminal justice agency with respect to its own
8 employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this
9 subdivision, of such information on all state-responsible inmates for the purpose of making
10 parole determinations pursuant to subdivisions 1, 2, 3, 4, and 6 of § 53.1-136 shall include
11 collective dissemination by electronic means every 30 days. For purposes of this subdivision,
12 criminal history record information includes information sent to the Central Criminal Records
13 Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-
14 time employee of the State Police, a police department or sheriff's office that is a part of or
15 administered by the Commonwealth or any political subdivision thereof, and who is responsible
16 for the prevention and detection of crime and the enforcement of the penal, traffic or highway
17 laws of the Commonwealth for the purposes of the administration of criminal justice;

18 2. Such other individuals and agencies that require criminal history record information to
19 implement a state or federal statute or executive order of the President of the United States or
20 Governor that expressly refers to criminal conduct and contains requirements or exclusions
21 expressly based upon such conduct, except that information concerning the arrest of an
22 individual may not be disseminated to a noncriminal justice agency or individual if an interval
23 of one year has elapsed from the date of the arrest and no disposition of the charge has been
24 recorded and no active prosecution of the charge is pending;

25 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to
26 provide services required for the administration of criminal justice pursuant to that agreement
27 which shall specifically authorize access to data, limit the use of data to purposes for which
28 given, and ensure the security and confidentiality of the data;

29 4. Individuals and agencies for the express purpose of research, evaluative, or statistical
30 activities pursuant to an agreement with a criminal justice agency that shall specifically
31 authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and
32 ensure the confidentiality and security of the data;

33 5. Agencies of state or federal government that are authorized by state or federal statute or
34 executive order of the President of the United States or Governor to conduct investigations
35 determining employment suitability or eligibility for security clearances allowing access to
36 classified information;

37 6. Individuals and agencies where authorized by court order or court rule;

38 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
39 owned, operated or controlled by any political subdivision, and any public service corporation
40 that operates a public transit system owned by a local government for the conduct of
41 investigations of applicants for employment, permit, or license whenever, in the interest of
42 public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past
43 criminal conduct of a person with a conviction record would be compatible with the nature of
44 the employment, permit, or license under consideration;

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ ~~33.2-1900~~ et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting, *at their cost*, a copy of ~~his~~ *their* own criminal history record information as defined in § 9.1-101 ~~at his cost, except that~~. *Such* criminal history record information shall be ~~supplied~~ *provided* at no ~~charge~~ *cost* to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; ~~or~~ (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1; *or at a reduced cost to a person for purpose of determining whether an arrest, charge, or conviction contained in such criminal history record information is eligible for expungement or sealing or has been expunged or sealed pursuant to Chapter 23.1 (§ 19.2-392.1 et seq.) or Chapter 23.2 (§ 19.2-392.5 et seq.) of this title, or to counsel for such person;*

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Commissioner of Social Services' representative from issuing written certifications regarding the results of a background check that was conducted before July 1, 2021, in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

13. Administrators and board presidents of and applicants for licensure as a prescribed pediatric extended care center for dissemination to the State Health Commissioner's representative pursuant to §§ 32.1-162.15:1.5 and 32.1-162.15:1.10 for the conduct of investigations with respect to employees of and volunteers at such centers, pursuant to § 32.1-162.15:1.17, subject to the restriction that the data shall not be further disseminated by the center to any party other than the data subject, the State Health Commissioner's representative, or a federal or state authority or court as may be required to comply with an express requirement of law;

14. The Department of Social Services for the purpose of screening individuals as a condition of licensure, employment, volunteering, or providing services on a regular basis in a licensed child welfare agency pursuant to §§ 63.2-1721 and 63.2-1726 or foster or adoptive home approved by a child-placing agency pursuant to § 63.2-901.1;

15. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

16. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

17. Licensed prescribed pediatric extended care centers for the conduct of investigations of applicants for compensated employment and volunteers in licensed prescribed pediatric extended care centers pursuant to § 32.1-162.15:1.17;

18. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

19. Licensed assisted living facilities and licensed adult day centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

20. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1 or the Virginia Cannabis Control Authority for the conduct of investigations as set forth in § 4.1-622;

21. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

22. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) or his designees for individuals who are committed to the custody of or being evaluated by the Commissioner pursuant to §§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.5, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 where such information may be beneficial for the purpose of placement, evaluation, treatment, or discharge planning;

23. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) interventions with first offenders under § 18.2-251 or (ii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

24. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

25. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

26. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

27. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

28. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

29. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the community services board to serve in a direct care position on behalf of the community services board pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

30. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the behavioral health authority to serve in a direct care position on behalf of the behavioral health authority pursuant to §§ 37.2-506, 37.2-506.1, and 37.2-607;

31. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

32. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider, permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, or permission for any person under contract with the provider to serve in a direct care position has been convicted of a crime that affects his fitness to have responsibility

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-416.1, 37.2-506, 37.2-506.1, and 37.2-607;

33. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

34. The Chairman of the Senate Committee for Courts of Justice or the Chairman of the House Committee for Courts of Justice for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

35. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

36. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

37. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

38. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

39. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

40. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

41. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19.1 (§ 6.2-1922 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, ~~19~~ 19.1, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

42. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

43. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

44. Bail bondsmen, in accordance with the provisions of § 19.2-120;

45. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

46. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

47. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

48. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

49. Administrators and board presidents of and applicants for licensure or registration as a child day program or home-based child care system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; however, nothing in this subdivision shall be construed to prohibit the Superintendent of Public Instruction's representative from issuing written certifications regarding the results of prior background checks in accordance with subsection J of § 22.1-289.035 or § 22.1-289.039;

50. The National Center for Missing and Exploited Children for the purpose of screening individuals who are offered or accept employment or will be providing volunteer or contractual services with the National Center for Missing and Exploited Children;

51. The Executive Director or investigators of the Board of Accountancy for the purpose of the enforcement of laws relating to the Board of Accountancy in accordance with § 54.1-4407; and

52. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, *or an electronic request that*

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

meets criteria established by the Department of State Police to sufficiently verify the identity of the requester, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, or electronically under penalty of perjury, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further, except as otherwise provided in subdivision A 49.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history record information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 18 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history record information provided to licensed assisted living facilities and licensed adult day centers pursuant to subdivision A 19 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history record information provided to public agencies pursuant to subdivision A 39 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

I. The attorney for the Commonwealth shall provide a physical or electronic copy of a person's criminal history record information, including criminal history record information maintained in the National Crime Information Center (NCIC) and the Interstate Identification Index System (III System) that is in his possession, pursuant to the rules of court for obtaining discovery or for review by the court. No criminal history record information provided under this subsection shall be disseminated further.

§ 19.2-389.1. Dissemination of juvenile record information.

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Department of Forensic Science to verify its authority to maintain the juvenile's sample in the DNA data bank pursuant to § 16.1-299.1; (viii) to the Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.); (ix) to the Virginia Criminal Sentencing Commission for research purposes; (x) to members of a threat assessment team established by a school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any juvenile record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team; (xi) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (xii) to the State Health Commissioner or his designee for the purpose of screening any person who applies to

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; ~~and~~ (xiii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; *and (xiv) to the person arrested, charged, adjudicated delinquent, or convicted of the offense, or to counsel for such person.*

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

A. If a person is arrested, charged, summonsed, or indicted for the commission of an infraction, a crime, or a civil offense and is not ultimately convicted, provided that no stipulation of facts sufficient to find guilt was entered or the court did not determine the facts sufficient to find guilt but deferred adjudication or disposition to a later date, such matter is eligible for expungement. Such person may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge. A person shall not be required to pay any court fees or costs for filing a petition under this subsection.

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

C. The petition with a copy of the charging document, if reasonably available, shall be filed in the circuit court of the county or city in which the case was resolved and shall contain, except when not reasonably available, the date of arrest and the name of the arresting agency. A single petition may request the expungement of the police and court records for multiple charges arising out of separate transactions or occurrences. When this information is not reasonably available, the petition shall state the reason for such unavailability. Such unavailability alone shall not be a basis for refusing expungement. The petition shall further state the specific criminal charge or civil offense to be expunged, the date of final disposition of the charge as set forth in the petition, the petitioner's date of birth, and the full name used by the petitioner at the time of arrest. If the petition is filed under this subsection, the petitioner shall request that the Central Criminal Records Exchange (CCRE) electronically forward a copy of the petitioner's Virginia criminal history record to the circuit court in which the petition was filed. Upon receiving such request, the CCRE shall electronically forward such record to the circuit court; however, if the circuit court is unable to receive an electronic transmission, the CCRE shall forward a copy of such record to the circuit court which shall be maintained under seal by the clerk unless otherwise ordered by the court.

D. ~~A copy of the petition shall be served on the attorney for the Commonwealth of the city or county in which the petition is filed.~~ *The clerk of the court shall transmit a copy of the petition to the attorney for the Commonwealth at the time such petition is filed. Such transmission may be by hand-delivery, facsimile, or other electronic means, or by providing the attorney for the Commonwealth with a method to retrieve the petition from the clerk's office.* The attorney for the Commonwealth may file an objection or answer to the petition, and if an objection is filed,

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

shall include the basis for such objection, or may give written notice to the court that he does not object to the petition within 21 days after it is served on him.

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

F. After receiving the criminal history record information, the court shall conduct a hearing on the petition. If the court finds that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances that constitute a potential manifest injustice to the petitioner, it shall enter an order requiring the expungement of the police and court records, including electronic records and any specifically identified emergency or preliminary protective orders issued pursuant to § 16.1-253, 16.1-253.1, 16.1-253.4, 19.2-152.8, or 19.2-152.9, relating to the charge. Otherwise, it shall deny the petition. However, if the petitioner has no prior criminal record and the arrest was for a misdemeanor violation or the charge was for a civil offense, the petitioner shall be entitled, in the absence of good cause shown to the contrary by the Commonwealth, to expungement of the police and court records relating to the charge, and the court shall enter an order of expungement. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives written notice to the court pursuant to subsection D that he does not object to the petition and (ii) when the charge to be expunged is a felony, stipulates in such written notice that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances that constitute a potential manifest injustice to the petitioner, the court may enter an order of expungement without conducting a hearing. The existence of a prior conviction alone shall not be a sufficient basis to deny an expungement.

G. The Commonwealth shall be made party defendant to the proceeding. Any party aggrieved by the decision of the court may appeal, as provided by law in civil cases. Any person whose petition for relief under this section is the subject of an appeal shall be allowed to proceed under a pseudonym pursuant to § 8.01-15.1 upon his request.

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

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

K. Upon the entry of an order of expungement, the clerk of the court shall cause a copy of such order to be forwarded to the Department of State Police, which shall, pursuant to rules and regulations adopted pursuant to § 9.1-134, direct the manner by which the appropriate expungement or removal of such records shall be effected. The Department of State Police shall validate the accuracy of any criminal history record ordered to be expunged pursuant to this section but shall not validate whether such record is eligible for expungement.

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

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

N. An order of expungement entered pursuant to this section shall prevail over any order or statutory requirement to seal an arrest, charge, or conviction pursuant to Chapter 23.2 of this title. Any request for access to records related to an arrest, charge, or conviction that has been both expunged and sealed shall be governed by Chapter 23.1 of this title.

O. The Library of Virginia shall not be required to expunge, purge, or destroy any archival or security backup court records in its possession, regardless of format or medium. The retention of such a record by the Library of Virginia after the entry of an expungement order under this section shall not constitute noncompliance with, or a violation of, such order. Any expunged records retained by the Library of Virginia shall be confidential and shall not be accessible or disseminated to the public.

§ 19.2-392.5. Sealing defined; effect of sealing.

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

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

"Records related to an arrest, charge, or conviction" means (i) the record of any specific arrest, charge, or conviction that has been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

392.8, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17 or (ii) any ancillary matter that was sealed pursuant to § 19.2-392.12 or 19.2-392.12:1.

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

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

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

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

E. A person who is the subject of the order of sealing entered pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, or the sealing of an offense without the

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

entry of an order pursuant to § 19.2-392.6:1 or 19.2-392.17, may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if:

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

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

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

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

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

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

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

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

H. Any arrest, charge, or conviction sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17 shall be (i) disclosed in any pretrial or sentencing report, including any discretionary sentencing guidelines; (ii) considered when ascertaining the punishment of a defendant; or (iii) considered in any hearing on the issue of bail, release, or detention of a defendant.

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

§ 19.2-392.6. Automatic sealing of offenses resulting in conviction.

A. (Effective until July 1, 2027) If a person was convicted of a violation of any of the following sections with an offense date on or after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; or § 18.2-415.

A. (Effective July 1, 2027) If a person was convicted of a violation of any of the following sections with an offense date on or after January 1, 1986, such conviction, including any records relating to such conviction, shall be ordered to be automatically sealed in the manner set forth in § 19.2-392.7, subject to the provisions of subsections B and C: a misdemeanor violation of § 18.2-96 or 18.2-103; § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; or § 18.2-415.

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

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

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

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

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

C. Sealing without the entry of a court order under this section shall not prohibit a person from seeking expungement in the circuit court pursuant to § 19.2-392.2. An order of expungement entered pursuant to § 19.2-392.2 shall prevail over sealing without entry of a court order under this section, and any request to access records related to such arrest, charge, or conviction shall be governed by Chapter 23.1 of this title.

§ 19.2-392.7. Process for automatic sealing of offenses resulting in a conviction or deferred disposition.

A. On at least a monthly basis, the Department of State Police shall electronically determine which offenses with an offense date on or after January 1, 1986, in the Central Criminal Records Exchange meet the criteria for automatic sealing set forth in subsections A, B, and C of § 19.2-392.6. *If an offense meets such criteria for automatic sealing, but has previously been sealed pursuant to another section of this title, such offense shall not be included in the list of offenses provided to the Executive Secretary of the Supreme Court pursuant to subsection B.*

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

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

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

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

§ 19.2-392.8. Automatic sealing of offenses resulting in acquittal or dismissal.

A. If a person is charged with the commission of a misdemeanor offense, excluding traffic infractions under Title 46.2, and the person is acquitted or the charge against him is dismissed with prejudice, *excluding an offense that was deferred and dismissed*, the court disposing of the matter shall order that the charge be automatically sealed under the process described in § 19.2-392.13, unless the person charged with the offense objects to such automatic sealing. *An ancillary matter, as defined in subsection A of § 19.2-392.5, shall not be sealed under this subsection.*

B. If a person is charged with the commission of a felony offense and is acquitted, or the charge against him is dismissed with prejudice, *excluding an offense that was deferred and dismissed*, he may immediately upon the acquittal or dismissal orally request that the records relating to the *arrest or* charge be sealed. Upon such request and with the concurrence of the attorney for the Commonwealth, the court shall order the automatic sealing of records relating to the arrest or charge under the process described in § 19.2-392.13. *An ancillary matter, as defined in subsection A of § 19.2-392.5, shall not be sealed under this subsection.*

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

D. Any denial by the court to enter a sealing order under subsection A or B shall be without prejudice, and the person may seek expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order under subsection A or B shall not prohibit the person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. *An order of expungement entered pursuant to § 19.2-392.2 shall prevail over an order to seal entered pursuant to this section, and any request to access records related to such arrest, charge, or conviction shall be governed by Chapter 23.1 of this title.*

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

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

§ 19.2-392.10. Process for automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal.

A. On at least a monthly basis, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall provide an electronic notification of all

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

offenses in such case management system to the Department of State Police that were ordered to be automatically sealed pursuant to § 19.2-392.8.

B. Upon receipt of the electronic notification under subsection A, the Department of State Police shall proceed as set forth in § 19.2-392.13.

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

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

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

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

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

G. This section shall not be construed as prohibiting a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. Entry of a sealing order pursuant to this section shall not prohibit a person from seeking expungement in the circuit court pursuant to the provisions of § 19.2-392.2. *An order of expungement entered pursuant to § 19.2-392.2 shall prevail over an order to seal entered pursuant to this section, and any request to access records related to such arrest, charge, or conviction shall be governed by Chapter 23.1 of this title.*

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

§ 19.2-392.12. Sealing of offenses resulting in a deferred and dismissed disposition or conviction by petition.

A. Except as provided in subsection L, a person who has been convicted of, ~~or~~ had a charge deferred and dismissed ~~for~~, *or for whom the imposition or execution of any sentence was suspended for* a (i) misdemeanor, (ii) Class 5 or 6 felony, or (iii) violation of § 18.2-95 or any other felony offense in which the defendant is deemed guilty of larceny and punished as provided in § 18.2-95, where the offense date for such misdemeanor or felony was on or after January 1, 1986, may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records related to the charge or conviction. In addition to requesting the sealing of a charge or conviction, such petition may also request the sealing of any specifically identified ancillary matter related to such charge or conviction.

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

D. The Commonwealth shall be made party to the proceeding. ~~The petitioner shall provide a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the city or county in which the petition is filed.~~ *The clerk of the court shall transmit a copy of the petition to the attorney for the Commonwealth at the time such petition is filed. Such transmission may be by hand-delivery, facsimile, or other electronic means, or by providing the attorney for the Commonwealth with a method to retrieve the petition from the clerk's office.* The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 30 days after it is delivered to him or received in the mail.

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

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

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

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

a. Seven years for any misdemeanor offense; or

b. Ten years for any felony offense;

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

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

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

F1. Any conviction on the person's criminal history record that has previously been sealed shall not be deemed a conviction when considering the criteria set forth in subsection F.

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

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

I. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police. Such electronic notification shall contain the petitioner's full name, date of birth, sex, race, and social security number, if available, and the full name used by the petitioner at the time of arrest or summons, as well as the petitioner's state identification number from the criminal history record, the court case number of the charge, conviction, or ancillary matter to be sealed, if available, and the document control number, if available. The Department of State Police shall validate the accuracy of any criminal history record ordered to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon receipt of such electronic notification, the Department of State Police shall seal such records in accordance with § 19.2-392.13. When sealing such charge, conviction, or ancillary matter, the Department of State Police shall include a notation on the criminal history record that such offense was sealed pursuant to this section. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134.

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

K. *If a petition for sealing is granted, the* ~~A~~ petition filed under this section and any responsive pleadings filed by the attorney for the Commonwealth shall be maintained under seal by the clerk unless otherwise ordered by the court. Any order to seal issued pursuant to this section

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

shall be sealed and may only be disseminated for the purposes set forth in § 19.2-392.13 and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.

L. ~~The following offenses are ineligible for sealing under this section:~~ *Eligibility for sealing under this section shall be based on the charge at the time of the final disposition. Any charge that concluded in a conviction or deferred dismissal for any the following offenses shall be ineligible for sealing:*

1. §§ 4.1-309.1, 5.1-13, 18.2-36, 18.2-36.1, 18.2-36.2, and 18.2-47; subsection A of § 18.2-49.1; § 18.2-51.5; subsection C of § 18.2-57; §§ 18.2-57.2, 18.2-57.3, 18.2-59.1, 18.2-60, 18.2-60.3, 18.2-60.5, 18.2-130, 18.2-130.1, 18.2-144, 18.2-144.1, 18.2-154, 18.2-178.1, 18.2-266, 18.2-266.1, 18.2-268.3, 18.2-282.1, and 18.2-324.2; former subsection B of 18.2-346; and §§ 18.2-405, 18.2-406, 18.2-472.1, 19.2-62, 29.1-738, 29.1-738.02, 29.1-738.2, 37.2-912, 40.1-100.2, 40.1-103, 46.2-341.24, and 46.2-341.26:3;

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

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

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

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

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

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

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

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

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

11. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory before the fact, or accessory after the fact, or any similar ordinance of any county, city, or town, for any offense deemed ineligible under this subsection;

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

15. Any violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

16. Any violation of Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2, with the exception of § 18.2-346, former subsection A of § 18.2-346, and § 18.2-347;

17. Any violation of Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, with the exception of §§ 18.2-365, 18.2-371.2, 18.2-371.3, and 18.2-371.4;

18. Any violation of Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, with the exception of § 18.2-388; and

19. Any offense where the victim of the crime to be sealed was a family or household member, as defined in § 16.1-228, of the person.

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

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

A. (Effective until July 1, 2027) A person who has been convicted, ~~offer~~ had a charge deferred and dismissed for a violation of § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file a petition setting forth the relevant facts and requesting the sealing of the criminal history record information and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or conviction, such petition may also request the sealing of any specifically identified ancillary matter related to such charge or conviction.

A. (Effective July 1, 2027) A person who has been convicted of or had a charge deferred and dismissed, *or for whom the imposition or execution of any sentence was suspended* for a violation of § 4.1-305; a misdemeanor violation of § 18.2-96 or 18.2-103; a violation of § 18.2-119, 18.2-120, or 18.2-134; a misdemeanor violation of former § 18.2-248.1; a violation of subsection A of § 18.2-265.3; or a violation of § 18.2-415, where the offense date for any such offense was on or after January 1, 1986, may file a petition setting forth the relevant facts and requesting the sealing of the criminal history record information and court records relating to the charge or conviction. In addition to requesting the sealing of a charge or conviction, such petition may also request the sealing of any specifically identified ancillary matter related to such charge or conviction.

B. A person who had a conviction or offense automatically sealed pursuant to § 19.2-392.7, 19.2-392.8, or 19.2-392.11 where the offense date for such conviction or offense was on or after January 1, 1986, or who had an offense sealed pursuant to § 19.2-392.6:1 regardless of the date of the offense, may file a petition setting forth the relevant facts and requesting sealing of the criminal history record information and court records of any specifically identified ancillary matter related to that charge or conviction.

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

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

F. The Commonwealth shall be made party to the proceeding. ~~The petitioner shall provide a copy of the petition under subsection A or B by delivery or by first-class mail, postage prepaid, to the attorney for the Commonwealth of the county or city in which the petition is filed. The clerk of the court shall transmit a copy of the petition to the attorney for the Commonwealth at the time such petition is filed. Such transmission may be by hand-delivery, facsimile, or other electronic means, or by providing the attorney for the Commonwealth with a method to retrieve the petition from the clerk's office.~~ The attorney for the Commonwealth may file an objection or answer to the petition or may give written notice to the court that he does not object to the petition within 30 days after it is delivered to him or received in the mail.

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

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

I. For a petition filed pursuant to subsection A, the court shall enter an order requiring the sealing of the records related to the charge, conviction, or ancillary matter if the court finds that seven years have passed since the date of conviction or of dismissal of the deferred charge listed

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

in subsection A and the petitioner has not been convicted of violating any law of the Commonwealth that requires a report to the Central Criminal Records Exchange under subsection A of § 19.2-390 or any other state, the District of Columbia, or the United States or any territory thereof, excluding traffic infractions under Title 46.2, during that time period. *For purposes of this subsection, any conviction on the person's criminal history record that has previously been sealed shall not be deemed a conviction.*

J. For a petition filed pursuant to subsection B, the court shall enter an order to seal the ancillary matter if the charge or conviction identified in the petition has been sealed pursuant to § 19.2-392.6:1, 19.2-392.8, 19.2-392.7, or 19.2-392.11.

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

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

M. Upon the entry of an order of sealing, the clerk of the court shall maintain a copy of such order under seal and shall cause an electronic notification of such order to be forwarded to the Department of State Police. Such electronic notification shall contain (i) the petitioner's full name, date of birth, sex, race, and social security number, if available; (ii) the full name used by the petitioner at the time of arrest or summons; (iii) the petitioner's state identification number from the criminal history record; (iv) the court case number of the charge, conviction, or ancillary matter to be sealed, if available; and (v) the document control number, if available. The Department of State Police shall validate the accuracy of any criminal history record ordered to be sealed pursuant to this section but shall not validate whether such record is eligible for sealing. Upon receipt of such electronic notification, the Department of State Police shall seal such records in accordance with § 19.2-392.13. The Department of State Police shall also electronically notify the Office of the Executive Secretary of the Supreme Court and any other agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated in accordance with § 19.2-392.13.

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

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

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

§ 19.2-392.12:2. Annual report.

The Office of the Executive Secretary of the Supreme Court of Virginia shall collect data related to petitions filed pursuant to §§ 19.2-392.12 and 19.2-392.12:1 and report such data annually

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

to the Virginia State Crime Commission by October 1 of each year, beginning October 1, 2027. Such data shall include the number of sealing petitions filed; whether such petitions were filed pursuant to § 19.2-392.12 or 19.2-392.12:1; the number of petitions in which a hearing was held; the number of charges ordered sealed or denied to be sealed; the number of petitioners represented by counsel; the date of birth, sex, and race of petitioners; and, to the extent available, data relating to the specifically identified charges, convictions, and ancillary matters for which sealing was granted or denied.

§ 19.2-392.13. Disposition of records when an offense is sealed; permitted uses of sealed records.

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

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

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2, or through the National Instant Criminal Background Check System of eligibility to possess or purchase a firearm, *or as provided to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2 of eligibility for a concealed handgun permit*; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; (viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House and Senate Committees for Courts of Justice for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134; (xvii) to any business screening service for purposes of complying with § 19.2-392.16; (xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12, whether the court or parties failed to strictly comply with sealing procedures, or whether an order for sealing was entered contrary to law; (xxiv) to determine a person's eligibility to be empaneled as a juror; (xxv) to the Auditor of Public Accounts for audit purposes; (xxvi) to the Department of Behavioral Health and Developmental Services and any entity defined under § 37.2-100 for purposes of providing any services or functions as defined in such section; (xxvii) to the attorney for the Commonwealth, the defendant or his counsel, any magistrate, any local community-based probation services agency or pretrial services agency, the Department of State Police, any police department, any sheriff's office, any campus police department, the Department of Corrections, any court, and the Virginia Criminal Sentencing Commission for the purposes set forth in subsection H of § 19.2-392.5; ~~and~~ (xxviii) *to the State Council of Higher Education for Virginia for purposes of administering the Virginia Longitudinal Data System; (xxix) to comply with the requirements for certifying victims of qualifying criminal activity as set forth in Chapter 15 of Title 9.1 (§ 9.1-15000 et seq.); and (xxx) to the person arrested, charged, or convicted of the offense that was sealed, or to counsel for such person.*

C1. In addition to the purposes set forth in subsection C, a sealed record may be disseminated without a court order within or between any department, division, board, bureau, commission, branch, authority or other agency created by the Commonwealth, or to which the ~~Commission~~ *Commonwealth* is a party or any political subdivision thereof, or with any federal agency, for the purpose of administering any duties or functions required by state or federal law *or for the administration of criminal justice as defined in § 9.1-101*. Nothing in this subsection shall authorize a business screening service to allow dissemination of a sealed record due to its continued existence in any such record.

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

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system or other system containing electronic case information maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, except to (i) the Virginia Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (ii) the Auditor of Public Accounts for audit purposes; (iii) any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for the purposes of collection of such court costs, fines, or restitution; and (iv) any person authorized to submit a request for payment to the Office of the Executive Secretary of the Supreme Court for services provided in a criminal case. Electronic records may be disseminated as authorized in this subsection without a court order.

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

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

H. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an electronic notification of an order directing that an offense be sealed, the

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

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

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

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

§ 19.2-392.14. Disclosure of sealed records; penalty.

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

B. A clerk of the court shall not be in violation of this section if such clerk informs a person requesting access to a sealed court record that such court record has been sealed and can only be accessed pursuant to a court order. *An employee of a law-enforcement agency shall not be in violation of this section if such employee informs a person requesting access to a sealed record that such record has been sealed and can only be accessed pursuant to § 19.2-392.13 and to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134.*

C. Any person who knowingly and intentionally violates this section is guilty of a Class 1 misdemeanor.

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

§ 19.2-392.15. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments; penalty.

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

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

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

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

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

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

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

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

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

E. No insurance company, as defined in § 38.2-100, shall, in any application for insurance, as defined in § 38.2-100, require an applicant to disclose information concerning any arrest, charge, or conviction against him that has been sealed. An applicant need not, in answer to any question concerning any arrest, charge, or conviction, include a reference to or information concerning arrests, charges, or convictions that has been sealed. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest, charge, or conviction against him that has been sealed.

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

F. If any entity or person listed under subsections A, C, D, or E includes a question about a prior arrest, charge, or conviction in an application for one or more of the purposes set forth in such subsections, such application shall include, or such entity or person shall provide, a notice to the applicant that information concerning an arrest, charge, or conviction that has been sealed does not have to be disclosed in the application. Such notice need not be included on any application for one or more of the purposes set forth in subsection B.

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

§ 19.2-392.16. Dissemination of criminal history records and traffic history records by business screening services.

A. For the purposes of this section:

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

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

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

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

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

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

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

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

C. A business screening service shall register with the Department of State Police to electronically receive notifications of orders of sealing provided to the Department of State

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

Police pursuant to §§ 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, 19.2-392.12, and 19.2-392.12:1. *The Department of State Police shall electronically notify all registered business screening services of all orders of sealing entered pursuant to such statutes, regardless of whether any offense contained in such orders can be matched to a disposition in the Central Criminal Records Exchange.* The Department of State Police may charge an annual licensing fee to the business screening service for accessing such information, with such fee to be used to cover the cost of providing such *records notifications*. The contract between the Department of State Police and the business screening service shall prohibit dissemination of the electronic notifications of the orders of sealing and shall require compliance by the business screening service with the provisions of subsections D, E, and F. The electronic notifications of the orders of sealing received by the business screening service and all information contained therein shall remain confidential and shall not be disseminated or resold. The electronic notifications of the orders of sealing shall be used for the sole purpose of deleting criminal history records that have been sealed. The business screening service shall delete the electronic notifications of the orders of sealing after deleting the information contained in such orders from sealed records. The Department of State Police shall require that the business screening service seeking access to the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. The Department of State Police shall further require that a business screening service acknowledge receipt of all electronic notifications of the orders of sealing provided by the Department of State Police. The Department of State Police shall maintain and publicly post a list on its website identifying the business screening services that are licensed to receive such records.

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

E. A business screening service shall implement and follow reasonable procedures to assure that it does not maintain or sell criminal history records or traffic history records that are inaccurate or incomplete. If the completeness or accuracy of a criminal history record or traffic history record maintained by a business screening service is disputed by the individual who is the subject of the record, the business screening service shall, without charge, investigate the disputed record. If, upon investigation, the business screening service determines that the record does not accurately reflect the content of the official record, the business screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to have been sealed pursuant to § 19.2-392.6:1, 19.2-392.7, 19.2-392.8, 19.2-392.10, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or 19.2-392.17, the business screening service shall promptly delete the record. A business screening service may terminate an investigation of a disputed record if the business screening service reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and shall provide a description of any information required to investigate the disputed record. The business screening service shall notify the subject of the disputed record of the correction or deletion of

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

the record or of the termination or completion of the investigation related to the record within 30 days of the date when the business screening service receives notice of the dispute from the subject of the record.

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

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

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

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

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

Virginia State Crime Commission

Sealing of Criminal Records – DRAFT LEGISLATION

October 22, 2026

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

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

§ 19.2-392.17. Traffic infractions deemed sealed.

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

B. The Department of Motor Vehicles shall not seal any traffic infraction under Title 46.2 (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of the traffic infraction that was deemed sealed pursuant to subsection A. The Department of Motor Vehicles shall seal all records deemed to be sealed pursuant to subsection A if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied.

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

2. That the Department of State Police shall develop and implement procedures and a process for a person to electronically request and receive a copy of their own criminal history record information for the purpose of determining whether an arrest, charge, or conviction is eligible for expungement or sealing or has been expunged or sealed, as set forth in subsection 11 of section A of § 19.2-389, as amended, by [date].