

Code of Virginia

Title 19.2. Criminal Procedure

Subtitle .

Chapter 23.1. Expungement of Criminal Records

## Chapter 23.1. Expungement of Criminal Records.

### **§ 19.2-392.1. Statement of policy.**

The General Assembly finds that arrest records can be a hindrance to a citizen's ability to obtain employment and an education. It further finds that the police and court records of those of its citizens who have been absolutely pardoned for crimes for which they have been unjustly convicted or who have demonstrated their rehabilitation can also be a hindrance. This chapter is intended to protect such persons from the unwarranted damage that may occur as a result of being arrested and convicted.

1977, c. 675; 1984, c. 642; 2021 Sp. Sess. I, cc. [550](#), [551](#).

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

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

1. Is acquitted, or

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

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

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

shall be maintained under seal by the clerk unless otherwise ordered by the court.

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

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

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

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

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

I. Notwithstanding any other provision of this section, upon receiving a copy pursuant to § 2.2-402 of an absolute pardon for the commission of a crime that a person did not commit, the court shall enter

an order requiring expungement of the police and court records relating to the charge and conviction. Such order shall contain a statement that the expungement is ordered pursuant to this subsection. Upon the entry of such order, it shall be treated as provided in subsection K.

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

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

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

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

1977, c. 675; 1983, c. 394; 1984, c. 642; 1990, c. 603; 1992, c. 697; 2001, cc. 40, 345; 2007, cc. 465, 824, 883, 905; 2009, c. 618; 2011, c. 362; 2015, c. 426; 2016, c. 617; 2019, c. 181; 2020, cc. 1285, 1286; 2022, cc. 554, 555.

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

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

1. Is acquitted, or

2. A nolle prosequi is taken or the charge is otherwise dismissed, including dismissal by accord and satisfaction pursuant to § 19.2-151, he may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge.

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

C. The petition with a copy of the warrant, summons, or indictment if reasonably available shall be filed in the circuit court of the county or city in which the case was disposed of by acquittal or being otherwise dismissed and shall contain, except when not reasonably available, the date of arrest and

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

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

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

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

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

H. Notwithstanding any other provision of this section, when the charge is dismissed because the court finds that the person arrested or charged is not the person named in the summons, warrant,

indictment or presentment, the court dismissing the charge shall, upon motion of the person improperly arrested or charged, enter an order requiring expungement of the police and court records relating to the charge. Such order shall contain a statement that the dismissal and expungement are ordered pursuant to this subsection and shall be accompanied by the complete set of the petitioner's fingerprints filed with his petition. Upon the entry of such order, it shall be treated as provided in subsection K.

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

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

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

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

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

N. 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.

1977, c. 675; 1983, c. 394; 1984, c. 642; 1990, c. 603; 1992, c. 697; 2001, cc. 40, 345; 2007, cc. 465, 824, 883, 905; 2009, c. 618; 2011, c. 362; 2015, c. 426; 2016, c. 617; 2019, c. 181; 2020, cc. 1285, 1286; 2023, cc. 554, 555; 2025, c. 634, 671.

**§ 19.2-392.2:1. Repealed.**

Repealed by Acts 2023, cc. 554, 555, cl. 2.

**§ 19.2-392.2:2. Repealed.**

Repealed by Acts 2023, cc. 554, 555, cl. 2.

**§ 19.2-392.3. Disclosure of expunged records.**

A. It shall be unlawful for any person having or acquiring access to an expunged court or police record to open or review it or to disclose to another person any information from it without an order from the court which ordered

the record expunged.

B. Upon a verified petition filed by the attorney for the Commonwealth alleging that the record is needed by a law enforcement agency for purposes of employment application as an employee of a law-enforcement agency or for pending criminal investigation and that the investigation will be jeopardized or that life or property will be endangered without immediate access to the record, the court may enter an ex parte order, without notice to the person, permitting such access. An ex parte order may permit a review of the record, but may not permit a copy to be made of it.

C. Upon a verified petition requesting access to an expunged court or police record that is filed by the person who was charged with the offense that was ordered to be expunged, with notice to the attorney for the Commonwealth, the court may enter an order allowing that person and their counsel to review and copy the expunged court or police record. However, no agency or entity shall be required to allow the person or their counsel to review or copy the expunged court or police record if such record has been destroyed.

D. Any person who willfully violates this section is guilty of a Class 1 misdemeanor. However, unless otherwise prohibited by law, any person who opens, reviews, or discloses information from an expunged court or police record after being provided a copy of such record by the person who was charged with the offense that was ordered to be expunged, or by counsel for such person, shall not be in violation of this section.

1977, c. 675; 1978, c. 713; 2023, cc. [554](#), [555](#); 2025, cc. [634](#) and [671](#), cl.12.

**§ 19.2-392.3:1. Motion for the disclosure of expunged police and court records in a civil case.**

In action for damages against a locality or a law-enforcement officer arising out of or relating to charges where a petition for the expungement of police and court records for such charges is pending or where the police and court records have been expunged, any party to such action may file a motion in the court in which the action is pending, or in the court where the petition for the expungement of police and court records was or is pending, for the release of the expunged records for use in the civil litigation, and, upon motion and for good cause shown, such police and court records shall be ordered to be released and the penalties set forth in this chapter relating to disclosure of such expunged records shall not apply.

2023, c. [465](#).

**§ 19.2-392.4. Prohibited practices by employers, educational institutions, agencies, etc., of state and local governments.**

A. An employer or educational institution shall not, in any application, interview, or otherwise, require an applicant for employment or admission to disclose information concerning any arrest, criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest or, criminal charge, conviction, or civil offense, include a reference to or information concerning arrests, charges, convictions, or civil offenses that have been expunged.

B. Agencies, officials, and employees of the 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, criminal charge against him, conviction, or civil offense that has been expunged. An applicant need not, in answer to any question concerning any arrest, criminal charge, conviction, or civil offense, include a reference to or information concerning an arrest, charges, convictions, or civil offenses that have been expunged. Such an application may not be denied solely because of the applicant's refusal to disclose information concerning any arrest or, criminal charge against him, conviction, or civil offense that has been expunged.

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

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