

HOUSE BILL NO. 803

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on _____)

(Patron Prior to Substitute--Delegate Rasoul)

A BILL to amend and reenact § 16.1-306 of the Code of Virginia, relating to expungement of juvenile court records.

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-306 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-306. Expungement of court records.

A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records, including electronic records, connected with any proceeding concerning a juvenile in such court, if such juvenile has attained the age of 19 years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section.

However, if the juvenile was found guilty of an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles or was adjudicated delinquent of a delinquent act that would be a felony if committed by an adult, other than a delinquent act that would be a felony violation of § 18.2-31, 18.2-32, 18.2-33, 18.2-40, 18.2-41, 18.2-42.1, 18.2-45, 18.2-46.3, 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-52, 18.2-58, 18.2-58.1, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, former 18.2-67.2:1, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-90, 18.2-91, 18.2-279, 18.2-346, 18.2-346.01, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-361, 18.2-366, 18.2-370, 18.2-370.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, or 18.2-386.1, the records shall be destroyed when the juvenile has attained the age of 29. If the juvenile was ~~found guilty of a delinquent act which would be a felony if committed by an adult~~ adjudicated delinquent of a delinquent act that would be a felony violation of §

27 18.2-31, 18.2-32, 18.2-33, 18.2-40, 18.2-41, 18.2-42.1, 18.2-45, 18.2-46.3, 18.2-47, 18.2-48, 18.2-48.1,
28 18.2-49, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-52, 18.2-58, 18.2-58.1, 18.2-61, 18.2-63, 18.2-64.1, 18.2-
29 67.1, 18.2-67.2, former 18.2-67.2:1, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-
30 67.5:3, 18.2-77, 18.2-79, 18.2-90, 18.2-91, 18.2-279, 18.2-346, 18.2-346.01, 18.2-348, 18.2-349, 18.2-
31 355, 18.2-356, 18.2-357, 18.2-357.1, 18.2-361, 18.2-366, 18.2-370, 18.2-370.1, 18.2-374.1, 18.2-374.1:1,
32 18.2-374.3, or 18.2-386.1, the records shall be retained.

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

39 C. A person who has been the subject of a delinquency or traffic proceeding and (i) has been found
40 innocent thereof or (ii) such proceeding was otherwise dismissed, may file a motion requesting the
41 destruction of all records pertaining to such charge. Notice of such motion shall be given to the attorney
42 for the Commonwealth. Unless good cause is shown why such records should not be destroyed, the court
43 shall grant the motion, and shall send copies of the order to all officers or agencies that are repositories of
44 such records, and all such officers and agencies shall comply with the order.

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

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

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

53 2. That the clerk of the juvenile and domestic relations district court shall expunge all records
54 pursuant to § 16.1-306 of the Code of Virginia, as amended by this act, by July 1, 2027.

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