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Transformative Criminal Record Sealing Law **Heads to the Governor for Signature**

Today, Virginians are one step away from a major victory: criminal record sealing that is automatic, equitable, free, and far reaching. Bills (SB1339, HB2113) that will greatly expand and improve the process of sealing criminal records have successfully passed both houses and are awaiting Governor Northam's signature.

Criminal records are more than just files stowed away in a database—they can stand in the way of renting an apartment, securing a job or a work credential, gaining admission to or paying for college, keeping custody of children, leaning on public benefits programs when needed, and voting in elections. Compounded with this country's legacy of disproportionate targeting of Black, brown, indigenous, and other traditionally marginalized people and communities by the criminal legal system, criminal records serve as a cornerstone of structural racism in our society.

Before these bills, Virginia was one of only seven states that do not allow sealing or expungement of any criminal convictions (only prosecutions that did not result in conviction). Virginia also required people to navigate a costly and complicated petition-based court process—which often meant needing the help of a lawyer, a luxury many people cannot afford.

With this legislation Virginia takes a bold step forward for a person's ability to seal their criminal records This is a significant accomplishment deftly navigated by Virginia House Leader Charniele Herring and Senator Scott Surovell with help from Governor Northam. It represents the first major change to Virginia's record sealing laws in over 40 years. When these bills take effect in 2025, Virginia will automatically seal cases that were dismissed or dropped as well as nine different misdemeanor convictions. Individuals will also be able to petition to expunge convictions for other misdemeanors and low-level felonies such as larceny and drug possession. This is an important step towards eliminating the punishment that persists well after anything assigned by a judge is completed.

"In 2004, my life was changed for what I thought would be forever. With a wrongful conviction, everything that I did was minimized by one question "Have you been convicted of a felony?". Moving forward, I can be a Virginia resident who has the same opportunities as others who have not been ensnared in the criminal legal system. My past no longer takes center stage, and my sentence finally ends with the signing of this bill." said Sheba Williams, the Executive Director of Nolef Turns.

"Last fall, a small group of people, most of whom had survived the violence of Virginia's prisons and jails, gathered to discuss ways to build better lives through legislation. Dedicated community leaders, under the banner of the Virginia Expungement Council, worked tirelessly to set the vision for free, automatic, and equitable criminal records relief. The passage of these bills is a manifestation of their work. A proper celebration looks like concrete efforts to build on their work," said Yohance Whitaker, an organizer with the Legal Aid Justice Center.

About the legislation:

The bills establish a system of automatic sealing for charges that were dropped or dismissed and for nine types of misdemeanor convictions that are at least seven years old. The bill also allows petition-based sealing of numerous misdemeanor and felony convictions, including possession of marijuana and disorderly conduct. The list of eligible offenses includes charges that disproportionately affect Black Virginians. The bill also forces private companies that profit from the sale of criminal records to delete records the state has sealed.

Why the current system is broken:

Under the current petition-based system, many of the steps are best accomplished with the help of a lawyer but few individuals who need their records sealed can afford to hire one. An individual must navigate the process on their own by finding and obtaining certified court records, completing and filing a petition for expungement, and serving a copy on the Commonwealth's attorney. The individual must also go to a law enforcement agency and submit themselves to fingerprinting. After all this, there is still the prospect of attending a court hearing, at which time the court could simply decide to deny the request.

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