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OFFICE OF THE COMMONWEALTH’S ATTORNEY

TO FACILITATE EXPUNGEMENT PROCESS

The Richmond Commonwealth’s Attorney Office has been a leader in progressive criminal reform policies, including opposition to the use of cash bonds, diverting offenders with mental health issues away from criminal penalties to the Mental Health and Behavioral dockets and providing multiple alternatives to incarceration for many non-violent offenders. One of the criminal justice reforms that the General Assembly recently considered was the expansion of those charges or convictions that could be expunged from an individual’s arrest record. The legislature was unable to agree on a bill and so the current expungement statute remains in effect.

Va. Code Section 19.2-392.2 limits the charges that can be expunged to only those charges that have been nolle prossed, dismissed, or resulted in an acquittal. A charge that resulted in a conviction cannot be expunged. The Commonwealth’s Attorney’s Office had been collaborating with the Richmond Office of Community Wealth Building and with the former President of the Richmond Criminal Bar Association to conduct an “Expungement Event” where offenders would receive education about the expungement process and on-site assistance in filling out the necessary paperwork. Unfortunately, that Event had be postponed because of the pandemic’s ongoing health restrictions.

Nevertheless, my Office is determined to support and encourage those individuals who are eligible to petition for expungement of their criminal charges. Last year, 207 expungement petitions were filed with the Richmond Circuit Court and none have been denied as of this date. The Commonwealth’s Attorney’s Office has the prosecutorial discretion to try to increase that number and I intend to exercise that authority. Effective immediately, my Office will provide information in all courtrooms that directs individuals to the Richmond Circuit Court Clerk’s Office to obtain the required forms and instructions to file a petition for expungement. In addition, my Office will waive the requirement that the petitioner obtain or pay a third-party to serve the petition on our Office, which is required by law. A person whose charge is “expungement eligible” can now obtain the expungement paperwork from the Clerk’s Office, complete it and file it him/herself with both the Clerk’s Office and the Commonwealth’s Attorney’s Office within minutes.

It is my hope that publicizing this stream-lined and less costly expungement petition process will encourage more individuals to exercise their right to file for expungement and thereby eliminate the life-long negative consequences that can flow from having an arrest record, including difficulty in securing housing, employment or educational opportunities.