



Virginia Department of Planning and Budget **Economic Impact Analysis**

6 VAC 20-120 Regulations Relating to Criminal History Record Information Use and Security

Department of Criminal Justice Services

Town Hall Action/Stage: 6644 / 10803 Proposed

June 22, 2026

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2024 periodic review² and a 2021 legislative mandate,³ the Board of Criminal Justice Services (Board) seeks to amend the regulation governing criminal records. The proposed amendments largely reflect the procedures and systems already adopted by the Virginia Department of State Police (VSP) to implement the legislative mandate and update provisions regarding the Central Criminal Records Exchange (CCRE).

Background

Chapters 524 and 542 of the 2021 *Acts of Assembly* amended several sections of the Code to specify in detail what it means to seal a record, including (i) the situations in which criminal records must be sealed or expunged, or where sealing or expungement may be requested, and (ii) the entities that are and are not authorized to have access to sealed records, as well as penalties for unauthorized dissemination of sealed records. In plain language, “sealing” preserves a criminal record while restricting the persons and entities authorized to access it and

¹ See Code § 2.2-4007.04 (A).

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2504>.

³ See <https://legacylis.virginia.gov/cgi-bin/legp604.exe?212+sum+SB1339> and <https://legacylis.virginia.gov/cgi-bin/legp604.exe?212+sum+HB2113>.

the circumstances in which the record may be accessed, whereas “expungement” is more restrictive and requires a court order for the record to be accessed. The legislation, part of a broader national trend in adopting “Clean Slate” laws,⁴ sought to restrict prior convictions for marijuana possession from being automatically disseminated in routine background checks conducted by potential employers, landlords, lenders, and insurance companies.

The legislation had staggered effective dates to allow for the development of the systems necessary to implement the provisions of the bill. Accordingly, the proposed changes largely reflect current practice based on the implementation of the legislative provisions. The most substantive changes are summarized below.

- Section 20 (Definitions) would be amended to add a definition for “partitioned or segregated separate file” and update the definition of “sealing” to “restricting the dissemination of criminal history record information contained in the [CCRE], including any records relating to an arrest, charge, or conviction.”
- Section 50 (Dissemination) would be amended to insert references to Virginia Code § 19.2-389.3 and Virginia Code § 19.2-392.13, which refer to marijuana possession and the disposition of records when an offense is sealed. This section currently requires criminal justice agencies disseminating criminal history record information to maintain a record of all “secondary disseminations” for at least two years; this requirement would be reduced to one year. This change is intended to reduce administrative burden; further, the Department of Criminal Justice Services reports that retention logs are primarily used for investigating misuse of records, responding to complaints, and auditing recent access, which typically occurs within the first year after dissemination.
- Section 80 (Sealing and Expungement) would be revised significantly. The proposed changes would
 - i. allow for electronic notifications and receipts (including notifications to VSP of an expungement order or an order for sealing, notifications by VSP to entities or individuals known to maintain or have obtained a record, and receipts of such notification by those entities);

⁴ See <https://www.cleanslateinitiative.org/about>.

- ii. address both electronic and hard copies of records (electronic records that are sealed or expunged must be stored in a partitioned or segregated file);
- iii. provide specific instructions for automatic sealing of eligible records on at least a monthly basis (this process requires VSP to generate a list of offenses that meet the criteria for automatic sealing and send the list to the respective courts so that the presiding judge may enter an order directing that the offenses meet the criteria for automatic sealing); and
- iv. establish requirements for agencies who possess records that are to be expunged. VSP would not be required to notify criminal justice agencies outside of the Commonwealth who obtained the criminal history record prior to the sealing order, as this was deemed too administratively burdensome.

Estimated Benefits and Costs

The primary benefit of the proposed changes would be to clarify and update the regulation that governs the process for the sealing and expungement of criminal records in order to match existing practices. Proponents of “Clean Slate” laws argue that removing barriers to employment, housing, and financial services for previously incarcerated individuals leads to lower recidivism, increased employment, and reduced reliance on public benefits.⁵ Because the amendments are non-discretionary changes derived from the legislation and current practices by VSP, their adoption would facilitate the accrual of, but not directly confer, any such benefits. These benefits, which are a result of the 2021 legislation, would particularly apply to the individuals whose records may be sealed or expunged, by providing transparency regarding how the mandate is being implemented. Any costs, especially to develop electronic systems with appropriate access restrictions, have already been incurred and were also a result of the 2021 legislation.

Businesses and Other Entities Affected

The proposed changes serve to update and clarify the process for the sealing and expungement of criminal records. These changes directly affect VSP, the Supreme Court and all circuit courts in Virginia, law enforcement agencies, other government agencies and entities that

⁵ See <https://www.cleanslateinitiative.org/updates/clean-slate-could-save-states-resources>, <https://comptroller.nyc.gov/reports/economic-benefits-of-the-clean-slate-act/>, and <https://www.brookings.edu/articles/clean-slate-laws-boost-the-economy-and-public-safety/>.

obtain criminal records. As mentioned previously, individuals with criminal records that would be eligible for sealing or expungement could benefit from greater access to employment or housing; however, any such benefits would be attributed to the 2021 legislation. Conversely, some businesses or landlords that wish to disqualify applicants with prior marijuana convictions would no longer be able to do so based on a background check; any resulting impact on them would also be attributed to the legislation.

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.⁶ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁷ As noted above, the proposed amendments largely reflect the requirements of the legislative mandate and do not contain discretionary changes that would create an incremental cost for any entity. Thus, an adverse impact is not indicated.

Small Businesses⁸ Affected:⁹

The proposed amendments would not adversely affect small businesses. Any impact on small businesses would be attributed to the 2021 legislation.

Localities¹⁰ Affected¹¹

The proposed amendments would not disproportionately affect any locality in particular. The proposed amendments do not introduce costs for local governments.

Projected Impact on Employment

The proposed amendments could increase employment to the extent that individuals with prior convictions of marijuana possession are no longer disqualified based on background checks. However, any such employment gains would be attributed to the legislative mandate.

⁶ See Code § 2.2-4007.04 (D).

⁷ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁸ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

⁹ See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).

¹⁰ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹¹ Code § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use and value of private property. The proposed amendments do not affect real estate development costs.