

COMMITTEE ON HOMELAND SECURITY, JUSTICE AND
PUBLIC SAFETY

12/12/2023-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 35-0178

Thirty-Fifth Legislature of the Virgin Islands

October 18, 2023

An Act amending title 5 Virgin Islands Code, chapter 314, to add a section 3732a to allow for the automatic expungement of arrest records upon a finding that the arrest lacked probable cause and amending title 3 Virgin Islands Code, chapter 33, section 881(g), item 9 relating to public records to designate expunged criminal records as confidential records

PROPOSED BY: Senators Javan E. James, Sr., Franklin D. Johnson and
Angel L. Bolques, Jr.

1 **WHEREAS**, when an individual is arrested, and no probable cause is found a criminal
2 record remains that negatively impacts the wrongfully arrested individual;

3 **WHEREAS**, Virgin Islands law presently requires the filing of a petition with the
4 Superior Court of the Virgin Islands to obtain an expungement of an arrest record even if no
5 probable cause was found;

6 **WHEREAS**, the filing of an expungement petition requires the impacted individual to
7 spend money and other resources and to be subjected to a civil process;

8 **WHEREAS**, the automatic expungement of arrest records for which there was no
9 probable cause for the arrest significantly reduces the impact of the arrest on the individual
10 without subjecting the individual to a civil process or expense; Now, Therefore,

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 5 Virgin Islands Code, subtitle 3, Part 1, chapter 314, is amended by
3 adding section 3732a to read as follows:

4 “§ 3732a. Automatic expungement when no probable cause is found

5 When the Court finds no probable cause, the Court shall simultaneously enter an order
6 expunging the arrest record, including fingerprints, mugshots, DNA samples, and any other
7 police or judicial proceeding records of a person.

8 **SECTION 2.** Title 3 Virgin Island Code, chapter 33, section 881(g), item 9 is amended
9 after “public records” by inserting “unless such records have been expunged pursuant to title
10 5, chapter 314 of the Virgin Islands Code.

11 **BILL SUMMARY**

12 Section 1 of the bill amends title 5 Virgin Islands Code, chapter 314, to allow for the
13 automatic expungement of arrest records that the Court dismisses for lack of probable cause.

14 Section 2 excludes expunged records from public access pursuant to 3 V.I.C. § 881(g),
15 item 9.

16 **BR23-0629/October 12, 2023/PFA**

17 [..\..\..\AMENDS\35th Legislature\JAMES, SR., JAVAN E\Amendment 35-553\35-553-](#)

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