

LEGISLATURE OF THE VIRGIN ISLANDS

**CERTIFICATE OF ENACTMENT
NOTWITHSTANDING THE GOVERNOR'S VETO**

THIS IS TO CERTIFY THAT, Bill No. 31-0094-An Act amending title 5 Virgin Islands Code, subtitle 3, Part 1, chapter 314 relating to expungement of criminal records to enact "The Second Chance For Jobs, Housing and Education After a Misdemeanor Conviction Act", enacted by the Thirty-first Legislature at its regular session held on May 06, 2015, (a copy of which is attached hereto) and vetoed by the Governor on May 20, 2015, was duly enacted, by override, by the Thirty-first Legislature at its regular session on July 30, 2015, pursuant to section 9(d) of the Revised Organic Act of the Virgin Islands, 48 U.S.C. §1575 (d), notwithstanding the Governor's veto and has become law.

DATED: 7/31/15





Neville James
President

ATTEST:



Myron D. Jackson
Legislative Secretary

OVERRIDDEN

DATE: 07/30/2015

ACT NO. 7712

VETOED
MAY 20 2015

BILL NO. 31-0094

GOVERNOR

THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2015

An Act amending title 5 Virgin Islands Code, subtitle 3, Part 1, chapter 314 relating to expungement of criminal records to enact "The Second Chance For Jobs, Housing and Education After a Misdemeanor Conviction Act"

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WHEREAS, people convicted of a misdemeanor offense and serving less than one year in jail need a second chance. Many people who plea to a misdemeanor offense and serve only a few days to a few weeks in jail are unable to find work or housing after their conviction. They are then unable to provide support for their family, children, and some become a burden on society despite their ability and willingness to work; and

WHEREAS, existing law does not provide for expungement of misdemeanor convictions; and

WHEREAS, the Legislature finds that the protracted waiting period for petitioning the expungement of a misdemeanor conviction under the existing rules of the Superior Court hinders the rehabilitation and reentry into the community of those convicted of misdemeanors; and

WHEREAS, it is the collective sense of the members of the Thirty-first Legislature that legislation providing for the expungement of misdemeanor convictions and establishing shorter waiting periods than those under court rules for filing expungement petitions is in the public interest; Now, therefore:

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. This Act may be cited as "The Second Chance for Jobs and Education after a Misdemeanor Conviction Act."

SECTION 2. Title 5 Virgin Islands Code, subtitle 3, part 1, chapter 314, section 3732 is amended by striking "may" and inserting "must" and by striking "by" and inserting "upon", and section 3733, subsection (a) is amended in the introductory language by striking "by" and inserting "upon."

SECTION 3. Title 5 of the Virgin Islands Code, subtitle 3, part 1, chapter 314, section 3734 is amended by striking the existing language in its entirety and inserting new language that reads as follows:

“(a) The Court may expunge the record of a misdemeanor conviction of an individual, including finger prints, photographs, and DNA samples, and records of other police or judicial proceedings of the individual, upon the petition of the individual and subject to the provisions of this chapter and rules of the Court. Any person wishing to have his record of misdemeanor conviction expunged must petition the Court and send a copy of the Petition to the Department of Justice.

(b) The Department of Justice has the burden of proving by clear and convincing evidence that a Petition for Expungement should not be granted. The Court shall grant the Petition for Expungement, if the Department of Justice fails to meet its burden.”

SECTION 4. Title 5 Virgin Islands Code, subtitle 3, part 1, chapter 314, section 3735 is amended in the following instances:

(a) Subsection (c) is amended at the end of the subsection by adding a sentence that reads as follows: “If the Department of Justice elects not to file an opposition to the Petition for Expungement, or does not file a timely objection, the Court may grant the Petition for Expungement.”

(b) Subsection (d) is amended at the end of the subsection after “Justice” by adding the following: “. if the Petitioner is seeking to have more than one record of misdemeanor conviction expunged”.

SECTION 5. Title 5 Virgin Islands Code, subtitle 3, part 1, chapter 314, section 3737 is amended by striking all of the existing language and inserting new language that reads as follows:

“(a) Waiting times are calculated from the day a person completes the jail term or probation term whichever is later.

(b) Waiting times are as follows:

(1) A person who serves between zero and 14 days in jail must wait 6 months before filing a Petition for Expungement of the conviction.

(2) A person who serves between 14 days and 60 days must wait 1 year before filing a Petition for Expungement of the conviction.

(3) A person who serves between 61 days and 180 days must wait 2 years before filing a Petition for Expungement of the conviction.

(4) A person who serves between 181 and three hundred and sixty five 365 days must wait 5 years from before filing a Petition for Expungement of the conviction.”

Thus passed by the Legislature of the Virgin Islands on May 6, 2015.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 8 Day of
May, AD., 2015.



A handwritten signature in black ink, appearing to read "Neville James".

Neville James
President

A handwritten signature in black ink, appearing to read "Myron D. Jackson".

Myron D. Jackson
Legislative Secretary