

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: Senator Javan E. James, Sr.

1 **WHEREAS**, the arrest of an individual without probable cause results in dismissal of the
2 arrest, but creates a criminal record that negatively impacts the wrongfully arrested individual;

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

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 of criminal records of arrest for which there was no
5 probable cause

6 When the Superior Court dismisses a criminal complaint or an information for lack of
7 probable cause, the Court shall simultaneously enter orders expunging the arrest record,
8 including fingerprints, mugshots, DNA samples, and any other police or judicial proceeding
9 records of a person.

10 **SECTION 2.** Title 3 Virgin Island Code, chapter 33, section 881(g), item 9 is amended
11 after “public records” by inserting “unless such records have been expunged pursuant to title
12 5, chapter 314 of the Virgin Islands Code.

13 **BILL SUMMARY**

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

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

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