

SEALING OF CRIMINAL RECORDS

OVERVIEW OF LAWS AND PROCESSES

October 2026

Sealing Defined

- Virginia's sealing laws took effect July 1, 2026.
  - Applies to offenses committed by adults and juveniles tried as adults, but not offenses committed by juveniles.
- Sealing means that a criminal record is no longer publicly available, unless an exception applies.
  - A sealed criminal record still exists and can be shared for various reasons (*see* Va. Code §§ 19.2-392.5 and 19.2-392.13(C) & (C1)).

Sealing Defined

- The following records are sealed:
  - Central Criminal Records Exchange (Virginia State Police);
  - Any Virginia court (with various exceptions, such as published and unpublished opinions);
  - Any Virginia law enforcement agency; and,
  - Virginia Department of Motor Vehicles.
- Private background check companies will be notified and prohibited from sharing sealed record information.

Sealing Defined

- Sealing is a civil process.
- Sealing is not:
  - Expungement;
  - Pardon;
  - Restoration of civil or firearm rights;
  - Removal of a barrier crime under federal law; or,
  - Relief from the obligation to pay restitution, fines, or court costs.

Types of Sealing

- Automatic Sealing (6 processes)
  - No petition required.

- Petition Sealing (2 processes)
  - Petition must be filed in the circuit court where the offense occurred, along with a copy of the charging document (e.g., warrant, summons, indictment) and the petitioner's criminal history record.

Automatic Sealing

1. Certain misdemeanor convictions
2. Possession of marijuana offenses
3. Misdemeanor non-convictions at case conclusion
4. Felony non-convictions at case conclusion
5. Previously concluded misdemeanor non-convictions
6. Traffic infractions

Automatic – Misdemeanor Convictions

- Misdemeanor convictions eligible for automatic sealing:
  - Petit larceny (§ 18.2-96);
  - Shoplifting (§ 18.2-103);
  - Trespassing (§ 18.2-119);
  - Instigating trespass (§ 18.2-120);
  - Trespass on posted property (§ 18.2-134);
  - Distribution of marijuana (§ 18.2-248.1(a)); and,
  - Disorderly conduct (§ 18.2-415).

Automatic – Misdemeanor Convictions

- Criteria to automatically seal a misdemeanor conviction:
  - Offense was committed on or after January 1, 1986;
  - Person was not convicted of a separate crime on the same date that is not eligible for automatic sealing; and,
  - 7 years passed from the date of conviction with no Virginia CCRE reportable convictions or any convictions in another state.
- No requirement to pay restitution, fines, or court costs before an offense is automatically sealed.

Automatic – Possession of Marijuana

- As of July 1, 2026, all criminal and civil charges and convictions for possession of marijuana under former Va. Code § 18.2-250.1 will be sealed without entry of a court order, regardless of the final disposition of the case.
  - No date limit, waiting period, or good behavior criteria.

- This does not include criminal or civil possession of marijuana charges or convictions under Va. Code § 4.1-1100.

Automatic – Misdemeanor Non-Convictions at Case Conclusion

- Misdemeanors that conclude on or after July 1, 2026, as an acquittal or dismissal with prejudice must be ordered sealed by the court at case conclusion.
  - The only exception is if the defendant objects.

- An offense that has been automatically sealed in this manner is still eligible for expungement.

Automatic – Felony Non-Convictions at Case Conclusion

- Felonies that conclude on or after July 1, 2026, as an acquittal or dismissal with prejudice must be ordered sealed by the court at case conclusion if:
  - The defendant verbally requests the offense be sealed; and,
  - The Commonwealth's Attorney concurs.

- An offense that has been automatically sealed in this manner is still eligible for expungement.

Automatic – Previously Concluded Misdemeanor Non-Convictions

- Misdemeanor non-convictions (i.e., acquittal, nolle prosequi, and dismissal, excluding deferred dismissal) that concluded prior to July 1, 2026, will be automatically sealed if:
  - The offense date was on or after January 1, 1986;
  - The person's criminal record contains no convictions for a crime that requires a report to the Virginia CCRE; and,
  - The person has not been arrested or charged with a crime in the past 3 years that requires a report to the Virginia CCRE.
    - The 3-year look back is based on the date of the annual review of the CCRE for eligibility.

Automatic – Traffic Infractions

- All traffic infractions that occurred on or after January 1, 1986, excluding offenses punishable as a criminal offense, will be sealed 11 years after the date of final disposition, unless sealing the record would be:
  - Prohibited under federal or state law; or,
  - In violation of a federal regulation or program requirement.

Petition Sealing

- Two types of petition sealing:
  - **Automatic Petition Sealing** - narrower class of misdemeanors that are eligible for automatic sealing, but were unable to be sealed for various reasons.
  - **Petition Sealing** - broader class of misdemeanors and felonies with more stringent sealing criteria.
- No cost to file a petition or request a criminal record for sealing.
- Ancillary matters can also be sealed via petition.

Petition Sealing

- Ancillary matters include:
  - Probation or parole violations;
  - Contempt of court violations;
  - Failure to appear charges or convictions; and,
  - Bail, bond, or recognizance order appeals.

- Ancillary matters must be specifically included in the petition.
  - Ancillary matters will <u>not</u> be automatically sealed.

Automatic Petition Sealing

- Automatic petition sealing includes two categories:
  - **Misdemeanor convictions and deferred dismissals:**
    - Convictions that were eligible for automatic sealing but not sealed;
    - Underage alcohol (§ 4.1-305);
    - Drug paraphernalia (§ 18.2-265.3(A)); and,
    - Related ancillary matters.
  - **Ancillary matters related to an automatically sealed:**
    - Misdemeanor conviction;
    - Previously concluded misdemeanor non-conviction; or,
    - Possession of marijuana offense (former § 18.2-250.1).

Automatic Petition Sealing

- Misdemeanor convictions and deferred dismissals must be sealed if:
  - Offense was committed on or after January 1, 1986;
  - Person was not convicted of a separate crime on the same date that is not eligible for automatic sealing; and,
  - 7 years passed from the date of conviction with no Virginia CCRE reportable convictions or any convictions in another state.

- The court must grant the petition to seal ancillary matters related to a previously sealed offense if the related offense was automatically sealed.

Petition Sealing

- Certain misdemeanors, Class 5 and 6 felonies, larceny offenses, and related ancillary matters are eligible for petition sealing.
  - Convictions and deferred dismissals only.
  - Multiple offenses can be sealed under one petition if all the offenses arose out of the same transaction or occurrence.
  - Numerous offenses are not eligible, such as violent felonies, sex crimes, sex trafficking, firearm offenses, and attempt, conspiracy, solicitation to commit an ineligible offense, etc. *See complete list of ineligible offenses on agency sealing webpage.*

Petition Sealing

Criteria to grant a petition:

1. No Class 1, 2, or life felony convictions ever; no Class 3 or 4 felony convictions in past 20 years; no other felony convictions in past 10 years;
2. 7-year waiting period for misdemeanors and 10-year waiting period for felonies (starting point of waiting period varies);
3. Demonstrate rehabilitation if offense involved use or dependence upon alcohol or other drugs;
4. Restitution paid in full;
5. Limit of 2 granted petitions in a person's lifetime; and,
6. Demonstrate a manifest injustice.

How to Petition for Sealing

- Review your criminal history record to identify what charges and/or ancillary matters you want to seal and determine if those charges are eligible for sealing.
- Complete and file the sealing petition form, along with a copy of the warrant, summons, indictment, or conviction and sentencing order, in the circuit court where your case concluded.
- Complete the online form for Virginia State Police to send your criminal history record to the circuit court.
- If applicable, be prepared to show the restitution was paid and you have taken steps to address alcohol or drug dependence.

Sharing of Sealed Records

- Sealed records can be shared for 28 specific reasons listed in the Code (§ 19.2-392.13(C)), such as:
  - Firearm background checks;
  - Criminal justice purposes (DNA or fingerprints);
  - Certain types of employment;
  - Research; and,
  - To the person whose record was sealed.
- Sealed record can also be shared within or between government agencies for purposes required under state or federal law.

Other Stakeholder Actions

- The Office of the Executive Secretary of the Supreme Court developed and posted sealing petition forms online.
- The Virginia State Police developed a process for a person to electronically request a copy of their criminal record.
- Efforts are underway to educate the public and stakeholders on the sealing laws and processes.

Additional Information

For more information, visit the Crime Commission sealing webpage:

The information contained in this overview is for informational purposes only. Crime Commission staff cannot provide legal advice or offer legal opinions on the interpretation of the sealing statutes to the public or other government entities.

Persons needing legal advice should contact their own attorney or the Virginia Lawyer Referral Service at (800) 552-7977 to be referred to a private attorney for a 30-minute FREE consultation.