



## **SEALING OF CRIMINAL RECORDS UPDATE**

# SEALING OF CRIMINAL RECORDS UPDATE

## SEALING OF CRIMINAL RECORDS BEGINS IN VIRGINIA ON JULY 1, 2026

On July 1, 2026, various statutes will take effect in Virginia that allow for the automatic and petition sealing of numerous offenses.<sup>1</sup> Processes will be in place to automatically seal the following types of offenses:

- Misdemeanor convictions (petit larceny, shoplifting, trespassing, instigating trespass, trespass on posted property, distribution of marijuana, and disorderly conduct);<sup>2</sup>
- Possession of marijuana offenses (criminal and civil);<sup>3</sup>
- Misdemeanor non-convictions at case conclusion (acquittal and dismissal with prejudice);<sup>4</sup>
- Felony non-convictions at case conclusion (upon verbal request by the defendant and concurrence of the Commonwealth's Attorney) (acquittal and dismissal with prejudice);<sup>5</sup>
- Previously concluded misdemeanor non-convictions (acquittal, nolle prosequi, and dismissal, excluding deferred dismissal);<sup>6</sup> and,
- Traffic infractions.<sup>7</sup>

In addition, the following two petition processes will be available to seal certain offenses:

- Petition sealing of misdemeanor and felony convictions, deferred dismissals,<sup>8</sup> and related ancillary matters, with the exception of numerous types of offenses, such as Class 1, 2, 3, and 4 felonies, sex crimes, violent felonies, sex trafficking, felonies involving the use of a firearm, protective order violations, hate crimes, animal cruelty, election laws, date rape drug offenses, not guilty by reason of insanity dispositions, dangerous or vicious dogs offenses, and crimes against family or household members;<sup>9</sup> and,
- Automatic petition sealing of misdemeanor convictions and deferred dismissals eligible for automatic sealing that were unable to be sealed through the automatic process, certain

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<sup>1</sup> 2025 Va. Acts ch. 634 and 671. Senate Bill 1466, 2025 Regular Session of the General Assembly, Governor's Recommendation Adopted. <https://lis.virginia.gov/bill-details/20251/SB1466>. House Bill 2723, 2025 Regular Session of the General Assembly, Governor's Recommendation Adopted. <https://lis.virginia.gov/bill-details/20251/HB2723>. See VA. CODE ANN. § 19.2-392.5 et seq. (2025). See also Appendix A.

<sup>2</sup> VA. CODE ANN. § 19.2-392.6 (2025).

<sup>3</sup> VA. CODE ANN. § 19.2-392.6:1 (2025).

<sup>4</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>5</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>6</sup> VA. CODE ANN. § 19.2-392.11 (2025).

<sup>7</sup> VA. CODE ANN. § 19.2-392.17 (2025).

<sup>8</sup> A deferred dismissal refers to a circumstance where a charge is dismissed after the defendant completes certain terms or conditions ordered by the court. See Virginia State Crime Commission. (2008). *Deferred disposition*, <https://vsc.virginia.gov/documents/deferred%20dispositon.pdf>.

<sup>9</sup> VA. CODE ANN. § 19.2-392.12 (2025). See also Appendix B.

other misdemeanor convictions and deferred dismissals not eligible for automatic sealing, and related ancillary matters.<sup>10</sup>

The sealing statutes apply to records in the possession of (i) the Central Criminal Records Exchange (CCRE) operated by Virginia State Police, (ii) any Virginia court, (iii) any Virginia police department, sheriff's office, or campus police department, or (iv) the Virginia Department of Motor Vehicles that relate to an arrest, charge, conviction, or specifically identified ancillary matter.<sup>11</sup> Sealing also applies to certain records that are not criminal in nature, such as civil offenses for possession of marijuana and traffic infractions.<sup>12</sup> Furthermore, the sealing statutes prohibit background check companies from sharing sealed criminal records.<sup>13</sup> For purposes of this report, the term “criminal record” refers to all of these records that are eligible for sealing.

The information contained in this report is current as of the sealing legislation enacted during the 2025 Regular Session of the General Assembly.<sup>14</sup>

## CRIME COMMISSION SEALING LEGISLATION

At the January 2025 Crime Commission meeting, Commission members endorsed legislation to make numerous technical and policy amendments to the sealing statutes. During the 2025 General Assembly Session, the legislature passed both bills following amendments by the Governor.<sup>15</sup> The sealing statutes are now set to take effect on July 1, 2026, unless changes are made during the 2026 Regular Session of the General Assembly.

Several budget amendments were also adopted during the 2025 Session to allocate funding for implementing the sealing processes,<sup>16</sup> including:

- Circuit Court Clerks (\$5.5 million for 117 additional Deputy Clerk positions);<sup>17</sup>
- Commonwealth’s Attorneys (\$5.5 million for 70 additional Assistant Commonwealth’s Attorney positions);<sup>18</sup>

<sup>10</sup> VA. CODE ANN. § 19.2-392.12:1 (2025).

<sup>11</sup> VA. CODE ANN. § 19.2-392.5(A) (2025).

<sup>12</sup> VA. CODE ANN. § 19.2-392.6:1(A) and § 19.2-392.17(A) (2025).

<sup>13</sup> VA. CODE ANN. § 19.2-392.16 (2025).

<sup>14</sup> 2025 Va. Acts ch. 634 and 671.

<sup>15</sup> House Bill 2723, 2025 Regular Session of the General Assembly. (Del. Charniele L. Herring). <https://lis.virginia.gov/bill-details/20251/HB2723>. Senate Bill 1466, 2025 Regular Session of the General Assembly. (Sen. Scott A. Surovell). <https://lis.virginia.gov/bill-details/20251/SB1466>.

<sup>16</sup> 2025 Va. Acts ch. 725. House Bill 1600. Final Budget. <https://budget.lis.virginia.gov/bill/2025/1/HB1600/Chapter/>.

<sup>17</sup> House Bill 1600. Budget Amendments Conference Report. Item 65 #1c. <https://budget.lis.virginia.gov/amendment/2025/1/HB1600/Introduced/CR/65/1c/>.

<sup>18</sup> House Bill 1600. Budget Amendments Conference Report. Item 64 #1c. <https://budget.lis.virginia.gov/amendment/2025/1/HB1600/Introduced/CR/64/1c/>.

- Office of the Executive Secretary (\$573,000 for system upgrades related to sealing,<sup>19</sup> along with approximately \$3 million for IT contract resources and 3 additional staff positions);<sup>20</sup>
- Virginia Indigent Defense Commission (\$138,000 for a Sealing and Expungement Resource Counsel position);<sup>21</sup> and,
- Virginia State Police (\$886,000 in the first year and \$688,000 in the second year for system changes).<sup>22</sup>

## FREQUENTLY ASKED QUESTIONS ABOUT CRIMINAL RECORD SEALING

The following questions and answers are divided into three sections. The first section provides an overview of sealing regardless of the type of process. The second section focuses on the automatic sealing processes, while the third section addresses the petition sealing processes.

The answers to the following questions are provided for informational purposes only and should not be considered or interpreted as legal advice for any individual case. Each case is unique; therefore, individuals with specific questions should consult an attorney for legal advice.

**The answers to the following questions are based on the sealing statutes set to take effect on July 1, 2026. If these statutes are amended in future legislative sessions, these answers may no longer be accurate.**

### OVERVIEW OF SEALING

#### WHAT IS SEALING?

Sealing means that a criminal record will generally no longer be publicly accessible.<sup>23</sup> A sealed criminal record held by the CCRE,<sup>24</sup> any Virginia court, any Virginia law enforcement agency, or the

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<sup>19</sup> House Bill 1600. Budget Amendments Conference Report. Item 31 #3c.

<https://budget.lis.virginia.gov/amendment/2025/1/HB1600/Introduced/CR/31/3c/>.

<sup>20</sup> House Bill 1600. Governor's Proposed Budget. Item 31.

<https://budget.lis.virginia.gov/item/2025/1/HB1600/Introduced/1/31/>. See also Padden, A.W. Office of the Executive Secretary. (2024). *Sealing of criminal court records, 2024 update*, slide 6,

<https://vsc.virginia.gov/2024/Nov14mtg/Presentation%20-%20OES%20Sealing%20of%20Criminal%20Records%202024%20Update.pdf>.

<sup>21</sup> House Bill 1600. Budget Amendments Conference Report. Item 40 #1c.

<https://budget.lis.virginia.gov/amendment/2025/1/HB1600/Introduced/CR/40/1c/>.

<sup>22</sup> House Bill 1600. Budget Amendments Conference Report. Item 415 #4c.

<https://budget.lis.virginia.gov/amendment/2025/1/HB1600/Introduced/CR/415/4c/>.

<sup>23</sup> VA. CODE ANN. § 19.2-392.5(A) and 19.2-392.13 (2025).

<sup>24</sup> The CCRE is a separate division with Virginia State Police and is the main Virginia criminal record keeping agency. See VA. CODE ANN. § 19.2-387 (2025). However, not all criminal offenses are reported to the CCRE; for example, misdemeanor offenses which are not punishable with jail time (Class 3 and 4 misdemeanors) are not required to be reported to the CCRE. See VA. CODE ANN. § 19.2-390 (2025).

DMV can only be shared publicly for certain purposes.<sup>25</sup> In addition, background check companies that collect criminal records are prohibited from sharing information related to a sealed offense.<sup>26</sup>

Sealing a criminal record does not eliminate the record. Government agencies may retain the record and share it with other government agencies as needed to perform required duties or functions.<sup>27</sup> In addition, the Virginia sealing processes do not apply to records housed by the federal government, so the federal government may still access the record through the FBI Criminal Justice Information Services division and share that record without prohibition.<sup>28</sup>

Even after a criminal record is sealed, various court records may still remain publicly available. For example, if a sealed record is included amongst other court records that have not been sealed, then that court record does not need to be sealed.<sup>29</sup> Similarly, certain appellate court records,<sup>30</sup> as well as paper records for possession of marijuana offenses and traffic infractions in circuit courts,<sup>31</sup> will remain publicly available. However, even if a sealed record remains publicly available, the limitations on use still apply.<sup>32</sup>

### **IS SEALING THE SAME AS EXPUNGEMENT?**

No. Expungement only applies to a charge that did not result in a conviction.<sup>33</sup> Moreover, expunged records are only accessible for a few specific purposes,<sup>34</sup> whereas sealed records can be accessed for a broader range of purposes.<sup>35</sup>

### **IS SEALING THE SAME AS A PARDON?**

No. A pardon is issued by the Governor and is a separate process from sealing.<sup>36</sup>

### **WHAT IS A CRIMINAL RECORD?**

A criminal record includes arrests, charges, convictions, and related ancillary matters.<sup>37</sup> In addition, as previously noted, a criminal record for purposes of the sealing statutes may also include certain

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<sup>25</sup> VA. CODE ANN. § 19.2-392.5(A) (2025).

<sup>26</sup> VA. CODE ANN. § 19.2-392.16 (2025).

<sup>27</sup> VA. CODE ANN. § 19.2-392.5(A) (2025).

<sup>28</sup> See FBI. (2025, March 17). *Criminal justice information services (CJIS)*, <https://www.fbi.gov/services/cjis>.

<sup>29</sup> VA. CODE ANN. § 19.2-392.13(F) (2025).

<sup>30</sup> *Id.*

<sup>31</sup> VA. CODE ANN. § 19.2-392.13(G) (2025).

<sup>32</sup> See VA. CODE ANN. § 19.2-392.15 (2025).

<sup>33</sup> VA. CODE ANN. § 19.2-392.2 (2025). See also VA. CODE ANN. § 19.2-298.02 (2025).

<sup>34</sup> VA. CODE ANN. §§ 19.2-392.3 and 19.2-392.3:1 (2025).

<sup>35</sup> VA. CODE ANN. § 19.2-392.13(C) (2025).

<sup>36</sup> See Secretary of the Commonwealth. (2025, May 20). *Frequently asked questions about pardons*, <https://www.commonwealth.virginia.gov/judicial-system/pardons/>.

<sup>37</sup> VA. CODE ANN. § 19.2-392.5(A) (2025).

records that are not criminal in nature, such as civil offenses for possession of marijuana and traffic infractions.<sup>38</sup>

### **WHAT IS AN ANCILLARY MATTER?**

An ancillary matter includes any of the following that relate to an arrest, charge, or conviction that was sealed or that a person is requesting to seal:

- Violation or alleged violation of a suspended sentence, probation, or parole;
- Violation or alleged violation of contempt of court;
- Charge or conviction for failure to appear; or,
- Appeal from a bail, bond, or recognizance order.<sup>39</sup>

### **WHAT TYPES OF OFFENSES CAN BE SEALED?**

The types of offenses that can be sealed vary based upon the sealing process. There are two types of sealing processes: automatic and petition. Both processes allow for the sealing of criminal records based on a specific offense, a class of offenses, or the final case disposition.

Processes will be in place to automatically seal the following types of offenses:

- Misdemeanor convictions (petit larceny, shoplifting, trespassing, instigating trespass, trespass on posted property, distribution of marijuana, and disorderly conduct);<sup>40</sup>
- Possession of marijuana offenses (criminal and civil);<sup>41</sup>
- Misdemeanor non-convictions at case conclusion (acquittal and dismissal with prejudice);<sup>42</sup>
- Felony non-convictions at case conclusion (upon verbal request by the defendant and concurrence of the Commonwealth's Attorney) (acquittal and dismissal with prejudice);<sup>43</sup>
- Previously concluded misdemeanor non-convictions (acquittal, nolle prosequi, and dismissal, excluding deferred dismissal);<sup>44</sup> and,
- Traffic infractions.<sup>45</sup>

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<sup>38</sup> VA. CODE ANN. § 19.2-392.6:1(A) and § 19.2-392.17(A) (2025).

<sup>39</sup> VA. CODE ANN. § 19.2-392.5(A) (2025).

<sup>40</sup> VA. CODE ANN. § 19.2-392.6 (2025).

<sup>41</sup> VA. CODE ANN. § 19.2-392.6:1 (2025).

<sup>42</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>43</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>44</sup> VA. CODE ANN. § 19.2-392.11 (2025).

<sup>45</sup> VA. CODE ANN. § 19.2-392.17 (2025).

The following two petition processes will be available to seal certain offenses:

- Petition sealing of misdemeanor and felony convictions, deferred dismissals,<sup>46</sup> and related ancillary matters, with the exception of numerous types of offenses, such as Class 1, 2, 3, and 4 felonies, sex crimes, violent felonies, sex trafficking, felonies involving the use of a firearm, protective order violations, hate crimes, animal cruelty, election laws, date rape drug offenses, not guilty by reason of insanity dispositions, dangerous or vicious dogs offenses, and crimes against family or household members;<sup>47</sup> and,
- Automatic petition sealing of misdemeanor convictions and deferred dismissals eligible for automatic sealing that were unable to be sealed through the automatic process, certain other misdemeanor convictions and deferred dismissals not eligible for automatic sealing, and related ancillary matters.<sup>48</sup>

## WHAT ARE THE SEALING PROCESSES?

While the sealing statutes create two processes, automatic and petition sealing, there are different types of automatic and petition sealing with each of these processes, including:<sup>49</sup>

- Automatic sealing of misdemeanor convictions (petit larceny, shoplifting, trespassing, instigating trespass, trespass on posted property, distribution of marijuana, and disorderly conduct);<sup>50</sup>
- Automatic sealing of possession of marijuana offenses (criminal and civil);<sup>51</sup>
- Automatic sealing of misdemeanor non-convictions at case conclusion (acquittal and dismissal with prejudice);<sup>52</sup>
- Automatic sealing of felony non-convictions at case conclusion (upon verbal request by the defendant and concurrence of the Commonwealth's Attorney) (acquittal and dismissal with prejudice);<sup>53</sup>
- Automatic sealing of previously concluded misdemeanor non-convictions (acquittal, nolle prosequi, and dismissal, excluding deferred dismissal);<sup>54</sup>
- Automatic sealing of traffic infractions;<sup>55</sup>

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<sup>46</sup> A deferred dismissal refers to a circumstance where a charge is dismissed after the defendant completes certain terms or conditions ordered by the court. See Virginia State Crime Commission. (2008). *Deferred disposition*, <https://vscc.virginia.gov/documents/deferred%20dispositon.pdf>.

<sup>47</sup> VA. CODE ANN. § 19.2-392.12 (2025). See also Appendix B.

<sup>48</sup> VA. CODE ANN. § 19.2-392.12:1 (2025).

<sup>49</sup> See Appendix A.

<sup>50</sup> VA. CODE ANN. § 19.2-392.6 (2025).

<sup>51</sup> VA. CODE ANN. § 19.2-392.6:1 (2025).

<sup>52</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>53</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>54</sup> VA. CODE ANN. § 19.2-392.11 (2025).

<sup>55</sup> VA. CODE ANN. § 19.2-392.17 (2025).

- Petition sealing of misdemeanor and felony convictions, deferred dismissals, and related ancillary matters (numerous ineligible and excluded offenses);<sup>56</sup> and,
- Automatic petition sealing of misdemeanor convictions and deferred dismissals eligible for automatic sealing that were unable to be sealed through the automatic process, certain other misdemeanor convictions and deferred dismissals not eligible for automatic sealing, and related ancillary matters.<sup>57</sup>

## **WHAT IS THE DIFFERENCE BETWEEN AUTOMATIC SEALING AND PETITION SEALING?**

Automatic sealing is initiated by the government and does not require a person to file a petition for a charge or conviction to be sealed.<sup>58</sup>

Petition sealing requires a person to submit a request to the court for a charge, conviction, or specifically identified ancillary matter to be sealed.<sup>59</sup>

## **DOES SEALING APPLY TO BOTH ADULT AND JUVENILE OFFENSES?**

No.<sup>60</sup> Sealing only applies to adult offenses and offenses where a juvenile was tried as an adult. Sealing does not apply to offenses where a juvenile was tried or adjudicated delinquent.<sup>61</sup>

## **DOES A PERSON WHOSE RECORD WAS SEALED NEED TO DISCLOSE THE SEALED OFFENSE?**

In general, a person is not required to disclose a sealed offense to a state or local government entity or a private employer in Virginia.<sup>62</sup> However, a sealed offense must be disclosed for certain types of employment,<sup>63</sup> proceedings involving the care or custody of a child,<sup>64</sup> and when being considered for jury service.<sup>65</sup>

These disclosure provisions apply only to government and private entities in Virginia. Therefore, a person may be required to disclose a sealed offense in response to another state or federal government entity or to a private employer outside of Virginia.

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<sup>56</sup> VA. CODE ANN. § 19.2-392.12 (2025). See also Appendix B.

<sup>57</sup> VA. CODE ANN. § 19.2-392.12:1 (2025).

<sup>58</sup> VA. CODE ANN. §§ 19.2-392.6:1, 19.2-392.7, 19.2-392.8(A), 19.2-392.10, 19.2-392.11, and 19.2-392.17 (2025). There is one exception to government initiated automatic sealing, which is for certain felony non-convictions (acquittals and dismissals with prejudice), where a verbal request from the accused is required to seal an eligible non-conviction. VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>59</sup> VA. CODE ANN. §§ 19.2-392.12 and 19.2-392.12:1 (2025).

<sup>60</sup> VA. CODE ANN. § 19.2-392.5(B) (2025).

<sup>61</sup> See VA. CODE ANN. § 16.1-306 (2025). Juvenile criminal records may eligible for expungement as set forth in this section.

<sup>62</sup> VA. CODE ANN. § 19.2-392.5(D) (2025).

<sup>63</sup> VA. CODE ANN. § 19.2-392.5(E) (2025).

<sup>64</sup> VA. CODE ANN. § 19.2-392.5(G) (2025).

<sup>65</sup> VA. CODE ANN. § 19.2-392.5(J) (2025).



## **CAN A PERSON BE ASKED TO DISCLOSE A SEALED OFFENSE?**

Various entities in Virginia are prohibited from asking about sealed offenses, including state and local government entities,<sup>66</sup> private employers,<sup>67</sup> educational institutions,<sup>68</sup> persons leasing or selling apartments or homes,<sup>69</sup> and insurance companies.<sup>70</sup> In addition, these entities must include a notice on any application that the applicant does not need to provide any information about a sealed offense.<sup>71</sup> A willful violation of this prohibition is punishable as a Class 1 misdemeanor.<sup>72</sup>

However, a person can be asked to disclose a sealed offense for certain types of employment with a state or local government entity in Virginia, the federal government, or private companies that are subject to certain federal laws or regulations as part of the hiring process.<sup>73</sup>

These prohibitions on asking about a sealed offense apply only to government and private entities in Virginia. Therefore, a person may be asked to disclose a sealed offense when applying for employment, licensing, or services with the government of another state, the federal government, or a private entity outside of Virginia.

## **CAN A CRIMINAL RECORD BE USED OR SHARED AFTER IT HAS BEEN SEALED?**

Yes. After a criminal record is sealed, it can still be accessed or shared for various purposes. Virginia law sets forth 28 specific reasons for which sealed records can be accessed, used, or shared.<sup>74</sup> Many of these reasons involve employment, criminal justice and other government functions, and certain court proceedings. In addition, a person whose record has been sealed can obtain a copy of the sealed record. Furthermore, sealed records can be shared between government entities to carry out duties or functions required by state or federal law.<sup>75</sup>

## **IS THERE A PENALTY FOR DISCLOSING A SEALED OFFENSE?**

Any Virginia state or local government employee can be charged with a Class 1 misdemeanor if they knowingly and intentionally disclose a sealed offense.<sup>76</sup> However, this criminal penalty does not apply to private citizens, such as crime victims or members of the news media.

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<sup>66</sup> VA. CODE ANN. §§ 19.2-392.15(A) (employment purposes) and 19.2-392.15(C) (licensing, permitting, registration, or government service purposes) (2025).

<sup>67</sup> VA. CODE ANN. § 19.2-392.15(A) (2025).

<sup>68</sup> VA. CODE ANN. § 19.2-392.15(A) (2025).

<sup>69</sup> VA. CODE ANN. § 19.2-392.15(D) (2025).

<sup>70</sup> VA. CODE ANN. § 19.2-392.15(E) (2025).

<sup>71</sup> VA. CODE ANN. § 19.2-392.15(F) (2025).

<sup>72</sup> VA. CODE ANN. § 19.2-392.15(G) (2025).

<sup>73</sup> VA. CODE ANN. § 19.2-392.15(B) (2025).

<sup>74</sup> VA. CODE ANN. § 19.2-392.13(C) (2025).

<sup>75</sup> VA. CODE ANN. § 19.2-392.13(C1) (2025).

<sup>76</sup> VA. CODE ANN. § 19.2-392.14 (2025).

### **CAN SEALED OFFENSES BE USED IN A SUBSEQUENT CRIMINAL CASE?**

Yes. Even if an offense was sealed, that offense must still be:

- Disclosed in any pretrial or sentencing report, including sentencing guidelines worksheets; and,
- Considered when deciding punishment or determining bail.<sup>77</sup>

A sealed offense may also be used for impeachment purposes if its probative value outweighs its prejudicial effect.<sup>78</sup> Furthermore, the Commonwealth has a constitutional duty to disclose a sealed offense if it could be used as exculpatory, mitigating, or impeachment evidence.<sup>79</sup>

### **WILL A SEALED OFFENSE STILL BE CONSIDERED A BARRIER CRIME?**

It depends on the circumstance. A sealed offense will not be considered a barrier crime under Virginia law; however, it may still be a barrier crime under federal law.<sup>80</sup>

### **DOES SEALING RESTORE A PERSON'S CIVIL RIGHTS OR RIGHT TO POSSESS A FIREARM?**

No.<sup>81</sup> Sealing does not restore a person's civil rights or right to possess a firearm for that offense. Even if an offense is sealed, a person will need to apply to the Governor for restoration of their civil rights.<sup>82</sup> If a person has their civil rights restored, they will then need to go through an additional process to have their firearm rights restored.<sup>83</sup>

### **DOES A PERSON STILL HAVE TO PAY RESTITUTION, FINES, AND COURT COSTS IF AN OFFENSE IS SEALED?**

Yes. Even if an offense is sealed, a person still has an obligation to pay all fines, costs, forfeitures, penalties, and restitution related to the offense.<sup>84</sup>

A petition under the general sealing process cannot be granted unless the petitioner has paid all restitution related to the offense.<sup>85</sup>

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<sup>77</sup> VA. CODE ANN. § 19.2-392.5(H) (2025).

<sup>78</sup> VA. CODE ANN. § 19.2-392.13(J) (2025).

<sup>79</sup> *Brady v. Maryland*, 373 U.S. 83 (1963). *Giglio v. United States*, 405 U.S. 150 (1972). See also VA. CODE ANN. § 19.2-392.13(C)(xviii) and 19.2-392.13(K) (2025).

<sup>80</sup> VA. CODE ANN. § 19.2-392.5(I) (2025). See Virginia Joint Subcommittee to Study Barrier Crimes and Criminal History Record Checks. (2021, June 14). *List of VA barrier crimes not included in federal barrier crimes*, [https://dls.virginia.gov/groups/barriercrimes/list\\_of\\_va\\_barrier\\_crimes\\_not\\_included\\_in\\_federal\\_barrier\\_crimes.pdf](https://dls.virginia.gov/groups/barriercrimes/list_of_va_barrier_crimes_not_included_in_federal_barrier_crimes.pdf).

<sup>81</sup> VA. CODE ANN. § 19.2-392.5(K) (2025).

<sup>82</sup> See Virginia Secretary of the Commonwealth. (2025, March 17). *Restoration of rights*, <https://www.restore.virginia.gov/>.

<sup>83</sup> See Virginia State Police. (2025, March 17). *Restoration of firearm rights*, <https://vsp.virginia.gov/services/firearms/restoration-of-firearm-rights/>.

<sup>84</sup> VA. CODE ANN. § 19.2-392.5(F) (2025).

<sup>85</sup> VA. CODE ANN. § 19.2-392.5(F) and 19.2-392.12(F)(4) (2025)

## **CAN SEALED CRIMINAL RECORDS BE OBTAINED VIA A FREEDOM OF INFORMATION ACT (FOIA) REQUEST TO LAW ENFORCEMENT?**

No. Law enforcement cannot provide sealed criminal records in response to a FOIA request,<sup>86</sup> unless the disclosure of such records is otherwise permitted by law.<sup>87</sup>

## **ARE SEALED CRIMINAL RECORDS PUBLICLY AVAILABLE IN A COURT’S ONLINE CASE INFORMATION SYSTEM?**

No. Sealed criminal records are not publicly available in an online case information system.<sup>88</sup> However, various records will remain publicly available even after being sealed, such as:

- Published or unpublished opinions, orders, and case summaries;
- Cases that originated in the Supreme Court of Virginia or the Court of Appeals of Virginia; and,
- Appellate court records of traffic infractions.<sup>89</sup>

## **ARE PRIVATE COMPANIES NOTIFIED WHEN AN OFFENSE IS SEALED?**

Background check companies that collect or share criminal records in Virginia must register with Virginia State Police (VSP) to receive notice when an offense is sealed.<sup>90</sup> In addition, notice that possession of marijuana offenses and traffic infractions have been sealed is provided by statute.<sup>91</sup> Background check companies cannot share sealed offenses and must delete the records, unless retention is authorized by federal law.<sup>92</sup> No other private companies will be notified when an offense is sealed.

## **ARE ANY REMEDIES AVAILABLE IF A BACKGROUND CHECK COMPANY SHARES A SEALED RECORD?**

Various options exist for instances when a background check company shares a sealed record. First, a person can dispute the accuracy of the record and request that the disputed record be corrected.<sup>93</sup> Second, the person can pursue a claim for damages against the background check company.<sup>94</sup> Third, the Virginia Attorney General may file a civil action to enforce the Code section and sanction the background check company for a violation of the law.<sup>95</sup>

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<sup>86</sup> VA. CODE ANN. §§ 2.2-3706(C)(3) and 2.2-3706.1(J)(2) (2025).

<sup>87</sup> VA. CODE ANN. § 19.2-392.13(C) and (C1) (2025).

<sup>88</sup> VA. CODE ANN. § 17.1-293.1(B) and (C) (2025).

<sup>89</sup> VA. CODE ANN. § 19.2-392.13(F) (2025).

<sup>90</sup> VA. CODE ANN. § 19.2-392.16(C) (2025).

<sup>91</sup> See VA. CODE ANN. §§ 19.2-392.6:1 and 19.2-392.17 (2025).

<sup>92</sup> VA. CODE ANN. § 19.2-392.16(B) (2025).

<sup>93</sup> VA. CODE ANN. § 19.2-392.16(E) (2025).

<sup>94</sup> VA. CODE ANN. § 19.2-392.16(G) (2025).

<sup>95</sup> VA. CODE ANN. § 19.2-392.16(H) (2025).

## **CAN A PERSON OBTAIN A COPY OF THEIR OWN CHARGE, CONVICTION, OR ANCILLARY MATTER AFTER IT HAS BEEN SEALED?**

Yes. A sealed record can be shared with the person who was arrested, charged, or convicted of the offense that was sealed,<sup>96</sup> but only after the person has obtained a court order to access the sealed record.<sup>97</sup> To obtain that court order, the person will need to request either (i) the court that entered the order to seal the record or (ii) the court where the final disposition for the offense was entered if the case was sealed without a court order.<sup>98</sup> The Office of the Executive Secretary of the Supreme Court of Virginia (OES) will create a form for requesting the court for such access, and that form is expected to be available on the Virginia Judicial System website by July 1, 2026.<sup>99</sup>

## **AUTOMATIC SEALING**

### **WHAT ARE THE TYPES OF AUTOMATIC SEALING?**

The types of automatic sealing are:

- Misdemeanor convictions (petit larceny, shoplifting, trespassing, instigating trespass, trespass on posted property, distribution of marijuana, and disorderly conduct);<sup>100</sup>
- Possession of marijuana offenses (criminal and civil);<sup>101</sup>
- Misdemeanor non-convictions at case conclusion (acquittal and dismissal with prejudice);<sup>102</sup>
- Felony non-convictions at case conclusion (upon verbal request by the defendant and concurrence of the Commonwealth's Attorney) (acquittal and dismissal with prejudice);<sup>103</sup>
- Previously concluded misdemeanor non-convictions (acquittal, nolle prosequi, and dismissal, excluding deferred dismissal);<sup>104</sup> and,
- Traffic infractions.<sup>105</sup>

### **WHAT MISDEMEANOR CONVICTIONS ARE ELIGIBLE FOR AUTOMATIC SEALING?**

There are seven misdemeanor convictions that are eligible for automatic sealing:

- Petit larceny (§ 18.2-96);

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<sup>96</sup> VA. CODE ANN. § 19.2-392.13(C)(xxviii) (2025).

<sup>97</sup> VA. CODE ANN. § 19.2-392.13(D) (2025).

<sup>98</sup> VA. CODE ANN. § 19.2-392.13(D) (2025).

<sup>99</sup> Virginia's Judicial System. (2025, March 19). *Forms*, <https://www.vacourts.gov/forms/home>.

<sup>100</sup> VA. CODE ANN. § 19.2-392.6 (2025).

<sup>101</sup> VA. CODE ANN. § 19.2-392.6:1 (2025).

<sup>102</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>103</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>104</sup> VA. CODE ANN. § 19.2-392.11 (2025).

<sup>105</sup> VA. CODE ANN. § 19.2-392.17 (2025).

- 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)(1)); and,
- Disorderly conduct (§ 18.2-415).<sup>106</sup>

A single conviction, or multiple convictions, for these misdemeanors will be automatically sealed after seven years from the date of conviction if the person:

- Committed the offense on or after January 1, 1986;<sup>107</sup>
- Was not convicted of a separate crime on the same date that is not eligible for automatic sealing;<sup>108</sup>
- Has not been convicted of any other crime in Virginia during the 7-year waiting period that requires a report to the CCRE;<sup>109</sup> and,
- Has not been convicted of a crime in any other state, the District of Columbia, or a United States territory, excluding traffic infractions, during the 7-year waiting period.<sup>110</sup>

### **WHAT POSSESSION OF MARIJUANA OFFENSES ARE ELIGIBLE FOR AUTOMATIC SEALING?**

Any criminal or civil offense that concluded with any final disposition as a charge or conviction for possession of marijuana be sealed without the entry of a court order.<sup>111</sup> The CCRE, courts, law enforcement agencies, and the DMV will identify and seal any such records in their possession.<sup>112</sup> However, the DMV will not automatically seal any records for possession of marijuana offenses if doing so would violate any federal regulation or program.<sup>113</sup> In addition, circuit court clerks are not required to redact or seal paper records of possession of marijuana offenses.<sup>114</sup>

### **WILL OFFENSES THAT CONCLUDE AS A NON-CONVICTION BE AUTOMATICALLY SEALED?**

Yes. The sealing statutes create processes to automatically seal certain misdemeanor and felony non-convictions at case conclusion,<sup>115</sup> as well as certain previously concluded misdemeanor non-convictions.<sup>116</sup>

<sup>106</sup> VA. CODE ANN. § 19.2-392.6(A) (2025).

<sup>107</sup> VA. CODE ANN. § 19.2-392.6(A) (2025).

<sup>108</sup> VA. CODE ANN. § 19.2-392.6(C) (2025).

<sup>109</sup> VA. CODE ANN. § 19.2-392.6(B) (2025). *See also* VA. CODE ANN. § 19.2-390(A) (2025).

<sup>110</sup> VA. CODE ANN. § 19.2-392.6(B) (2025).

<sup>111</sup> VA. CODE ANN. § 19.2-392.6:1(A) (2025).

<sup>112</sup> VA. CODE ANN. § 19.2-392.6:1(A) (2025).

<sup>113</sup> VA. CODE ANN. § 19.2-392.6:1(B) (2025).

<sup>114</sup> VA. CODE ANN. § 19.2-392.13(G) (2025).

<sup>115</sup> VA. CODE ANN. § 19.2-392.8 (2025).

<sup>116</sup> VA. CODE ANN. § 19.2-392.11 (2025).

## WHAT MISDEMEANOR AND FELONY NON-CONVICTIONS AT CASE CONCLUSION ARE ELIGIBLE FOR AUTOMATIC SEALING?

Misdemeanor offenses that conclude with an acquittal or dismissal with prejudice on or after July 1, 2026, will be automatically sealed at the time the case concludes, unless the defendant objects.<sup>117</sup> Similarly, felony offenses that conclude with an acquittal or dismissal with prejudice on or after July 1, 2026, will be automatically sealed at the time the case concludes if the defendant verbally requests the sealing of such records and the Commonwealth's Attorney agrees.<sup>118</sup> Misdemeanor and felony offenses that conclude with some other non-conviction disposition, such as a *nolle prosequi* or a dismissal without prejudice, are not eligible for automatic sealing at case conclusion. A person may still petition to expunge non-convictions, regardless of whether or not a sealing order was entered.<sup>119</sup>

## WHAT PREVIOUSLY CONCLUDED MISDEMEANOR NON-CONVICTIONS ARE ELIGIBLE FOR AUTOMATIC SEALING?

Misdemeanor offenses that previously concluded as an acquittal, *nolle prosequi*, or dismissal, excluding deferred dismissal, will be automatically sealed if:

- The offense date of the non-conviction was on or after January 1, 1986;
- The person's criminal record contains no convictions for a crime that requires a report to the CCRE; and,
- The person has not been arrested or charged with a crime that requires a report to the CCRE in the past 3 years.<sup>120</sup>

## WILL A SEALED CONVICTION PREVENT AN ELIGIBLE NON-CONVICTION FROM BEING SEALED?

No. An offense that has been sealed will not be counted as a charge or conviction on a person's record when determining eligibility for sealing previously concluded misdemeanor non-convictions.<sup>121</sup> For example, a person who has a petit larceny conviction from 8 years ago and an assault and battery charge that was *nolle prosequi* 10 years ago may have the petit larceny conviction automatically sealed through the conviction process,<sup>122</sup> and then the assault and battery can be sealed through the non-conviction process.<sup>123</sup>

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<sup>117</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>118</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>119</sup> VA. CODE ANN. § 19.2-392.8(D) (2025). See also VA. CODE ANN. § 19.2-392.2(A) (2025).

<sup>120</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>121</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>122</sup> VA. CODE ANN. § 19.2-392.7 (2025).

<sup>123</sup> VA. CODE ANN. § 19.2-392.11 (2025).

## WHAT TRAFFIC INFRACTIONS ARE AVAILABLE FOR AUTOMATIC SEALING?

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.<sup>124</sup>

However, appellate court records of traffic infractions are not required to be sealed,<sup>125</sup> and circuit court clerks are not required to redact or seal paper records of traffic infractions.<sup>126</sup>

## HOW WILL MISDEMEANOR CONVICTIONS AND PREVIOUSLY CONCLUDED MISDEMEANOR NON-CONVICTIONS BE IDENTIFIED AND AUTOMATICALLY SEALED?

Every month, VSP will review the CCRE and compile a list of misdemeanor convictions eligible for automatic sealing.<sup>127</sup> VSP will electronically send this list to OES,<sup>128</sup> which will forward it to the clerk of each circuit court in the jurisdiction where the case was finalized.<sup>129</sup> The chief or presiding judge of the circuit court will order that the offenses on the list be sealed, and the circuit court clerk will electronically notify VSP that the order has been entered.<sup>130</sup>

In addition, VSP will review the CCRE annually and make a list of all previously concluded misdemeanor non-convictions which are eligible for automatic sealing.<sup>131</sup> Similar to misdemeanor convictions, VSP will send this list to OES, which will forward it to the circuit court in the jurisdiction where the case was finalized to enter a sealing order, and the circuit court will then electronically notify VSP of the sealing order.<sup>132</sup>

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<sup>124</sup> VA. CODE ANN. § 19.2-392.17 (2025).

<sup>125</sup> VA. CODE ANN. § 19.2-392.13(F) (2025).

<sup>126</sup> VA. CODE ANN. § 19.2-392.13(G) (2025).

<sup>127</sup> VA. CODE ANN. § 19.2-392.7(A) (2025).

<sup>128</sup> VA. CODE ANN. § 19.2-392.7(B) (2025). Virginia State Police will also send the list directly to any circuit court clerk which maintains a case management system not administered by OES (currently only Fairfax County Circuit Court maintains its own case management system).

<sup>129</sup> VA. CODE ANN. § 19.2-392.7(C) (2025).

<sup>130</sup> VA. CODE ANN. § 19.2-392.7(D) and (E) (2025).

<sup>131</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>132</sup> VA. CODE ANN. § 19.2-392.11 (2025).

### **ARE THERE ANY REASONS WHY A MISDEMEANOR CONVICTION OR A PREVIOUSLY CONCLUDED MISDEMEANOR NON-CONVICTION THAT IS ELIGIBLE FOR AUTOMATIC SEALING MIGHT NOT BE AUTOMATICALLY SEALED?**

Yes. For an eligible misdemeanor conviction or a previously concluded misdemeanor non-conviction to be automatically sealed, it must have been reported to the CCRE.<sup>133</sup> If the person was not fingerprinted, or if there was a clerical or transmission error, the offense may not appear on the person's criminal history record and, as a result, will not be automatically sealed.

However, while a misdemeanor conviction may not have been automatically sealed, a person can request to seal this conviction under the automatic petition sealing statute.<sup>134</sup> In addition, a person can petition for expungement of a misdemeanor non-conviction regardless of whether or not it has been automatically sealed.<sup>135</sup>

### **WILL A PERSON BE NOTIFIED IF AN OFFENSE IS AUTOMATICALLY SEALED?**

No. A person will not generally be notified that an offense has been automatically sealed, except for instances where a person is present when an order to automatically seal certain misdemeanor and felony non-convictions at case conclusion is entered.<sup>136</sup>

### **HOW CAN A PERSON FIND OUT IF AN OFFENSE WAS AUTOMATICALLY SEALED?**

There are various ways to determine whether an offense has been automatically sealed. First, a person can verify whether the offense still appears on the Virginia Judiciary Online Case Information System.<sup>137</sup> If the offense is no longer visible, it may have been automatically sealed. However, certain records may be destroyed by the courts after a specified retention period as provided in the Code. Thus, it may not always be clear whether a case is no longer viewable because it was sealed or because it was destroyed at the end of the retention period.<sup>138</sup> Unlike sealed records, the records destroyed by the court at the conclusion of the retention period will still appear in a background check.

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<sup>133</sup> VA. CODE ANN. §§ 19.2-392.7 and 19.2-392.11 (2025). See also VA. CODE ANN. § 19.2-390(A) (2025).

<sup>134</sup> See VA. CODE ANN. § 19.2-392.12:1 (2025).

<sup>135</sup> VA. CODE ANN. § 19.2-392.11(G) (2025).

<sup>136</sup> VA. CODE ANN. § 19.2-392.8(C) (2025).

<sup>137</sup> VA. CODE ANN. § 17.1-293.1 (2025). *Virginia judiciary online case information system 2.0*, <https://eapps.courts.state.va.us/ocis/landing>.

<sup>138</sup> VA. CODE ANN. §§ 16.1-69.55(A) and 17.1-213 (2025).



Second, a person can request a copy of their criminal history record from VSP.<sup>139</sup> VSP will include an indicator on the record to identify any offenses that have been sealed. VSP is currently working to streamline the process for an individual to obtain an electronic copy of their criminal history record.

Third, a person can ask the clerk in the court which disposed of the case to determine whether the case has been sealed.<sup>140</sup> The clerk will be able to advise the person whether the case has been sealed.<sup>141</sup>

## **PETITION SEALING**

### **WHAT ARE THE TYPES OF PETITION SEALING?**

The types of petition sealing are:

- Petition sealing of misdemeanor and felony convictions, deferred dismissals, and related ancillary matters (numerous ineligible and excluded offenses);<sup>142</sup> and,
- Automatic petition sealing of misdemeanor convictions and deferred dismissals eligible for automatic sealing that were unable to be sealed through the automatic process, certain other misdemeanor convictions and deferred dismissals not eligible for automatic sealing, and related ancillary matters.<sup>143</sup>

### **WHAT IS THE MAIN DIFFERENCE BETWEEN PETITION SEALING AND AUTOMATIC PETITION SEALING?**

Petition sealing is designed to cover a broader class of offenses and includes additional criteria that must be met for an offense to be sealed.<sup>144</sup> Automatic petition sealing is intended for offenses that were meant to be automatically sealed but were not, either because the offense was not in the CCRE or there was a clerical or transmission error.<sup>145</sup> Automatic petition sealing also addresses offenses that cannot be electronically identified within the CCRE for sealing, including underage possession of alcohol, possession of marijuana-related drug paraphernalia, deferred and dismissed offenses, and ancillary matters.<sup>146</sup>

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<sup>139</sup> VA. CODE ANN. § 19.2-389(A)(11) (2025). See also Virginia State Police. (2025, March 17). *Virginia criminal history record check*, <https://vsp.virginia.gov/services/criminal-background/>.

<sup>140</sup> See VA. CODE ANN. § 19.2-392.5(C) (2025). See also VA. CODE ANN. § 19.2-392.13(C)(xxviii) and (D) (2025).

<sup>141</sup> *Id.*

<sup>142</sup> VA. CODE ANN. § 19.2-392.12 (2025). See also Appendix B.

<sup>143</sup> VA. CODE ANN. § 19.2-392.12:1 (2025).

<sup>144</sup> VA. CODE ANN. § 19.2-392.12(A) and (F) (2025).

<sup>145</sup> VA. CODE ANN. § 19.2-392.12:1(A) (2025).

<sup>146</sup> VA. CODE ANN. § 19.2-392.12:1(A) and (B) (2025).

## WHAT OFFENSES ARE ELIGIBLE FOR PETITION SEALING?

A wide variety of convictions and deferred dismissals for the following types of offenses are eligible for petition sealing:

- Misdemeanors;
- Class 5 and 6 felonies; and,
- Grand larceny, along with other felony offenses punishable as larceny.<sup>147</sup>

In addition, ancillary matters that are specifically identified in the petition may also be sealed.<sup>148</sup>

Some of common offenses that are eligible for petition sealing include assault and battery,<sup>149</sup> larceny 3<sup>rd</sup> or subsequent,<sup>150</sup> drug possession,<sup>151</sup> distribution of marijuana,<sup>152</sup> destruction of property,<sup>153</sup> possession or distribution of drug paraphernalia,<sup>154</sup> and reckless driving.<sup>155</sup>

## ARE ANY OFFENSES INELIGIBLE FOR PETITION SEALING?

Yes. A number of offenses are ineligible for petition sealing. A person cannot petition to seal any Class 1, 2, 3, and 4 felonies, or a variety of unclassified felonies.<sup>156</sup> In addition, several misdemeanors and felonies are specifically excluded from eligibility.<sup>157</sup>

There are 19 provisions which exclude the following types of offenses from sealing eligibility: sex crimes, violent felonies, sex trafficking, felonies involving the use of a firearm, protective order violations, hate crimes, animal cruelty, election laws, date rape drug offenses, not guilty by reason of insanity dispositions, dangerous or vicious dogs offenses, and crimes against family or household members.<sup>158</sup>

In addition, any conspiracy, attempt, or solicitation to commit an ineligible offense, or anyone acting as a principal in the second degree<sup>159</sup> or an accessory before or after the fact will be barred from

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<sup>147</sup> VA. CODE ANN. § 19.2-392.12(A) (2025).

<sup>148</sup> *Id.*

<sup>149</sup> VA. CODE ANN. § 18.2-57 (2025), with the exception of the hate crime provisions and felony assault and battery of certain public servants listed under subsection C.

<sup>150</sup> Former VA. CODE ANN. § 18.2-104 (2025).

<sup>151</sup> VA. CODE ANN. § 18.2-250 (2025), with the exception of possession of flunitrazepam or Gamma hydroxybutyric acid.

<sup>152</sup> VA. CODE ANN. § 18.2-248.1(a)(2) (2025), Class 5 felony distribution only.

<sup>153</sup> VA. CODE ANN. § 18.2-137 (2025).

<sup>154</sup> VA. CODE ANN. § 54.1-3466 (2025).

<sup>155</sup> VA. CODE ANN. § 46.2-852 (2025).

<sup>156</sup> Unclassified felonies include a wide range of crimes, such as use of a firearm in the commission of a felony (VA. CODE ANN. § 18.2-53.1); carjacking (VA. CODE ANN. § 18.2-58.1); and burglary with the intent to commit larceny, assault and battery, or a felony other than rape, robbery, or arson (VA. CODE ANN. § 18.2-91).

<sup>157</sup> VA. CODE ANN. § 19.2-392.12(L) (2025). See also Appendix B.

<sup>158</sup> VA. CODE ANN. § 19.2-392.12(L) (2025). See also Appendix B.

<sup>159</sup> A principal in the second degree is “[o]ne who helped the perpetrator at the time of the crime.” Black’s Law Dictionary (9th Ed., 2009), p. 1312.

sealing the offense.<sup>160</sup> While there are a significant number of ineligible and excluded offenses, the majority of Class 5 and 6 felonies, as well as the vast majority of misdemeanors, will remain eligible for sealing.<sup>161</sup>

## **WHAT CRITERIA MUST BE MET UNDER THE PETITION SEALING STATUTE FOR A PETITION TO BE GRANTED?**

In order for a circuit court to grant a petition under the petition sealing statute, the person who is petitioning to seal an offense must prove that:<sup>162</sup>

1. Based on the date that the sealing petition was filed, the petitioner has:
  - Never been convicted of a Class 1 or 2 felony, or any other felony offense punishable by a life sentence;
  - Not been convicted of a Class 3 or 4 felony within the past 20 years; and,
  - Not been convicted of any other felony within the past 10 years.<sup>163</sup>
2. At least 7 years must have passed for a misdemeanor, or at least 10 years for a felony, and during that time the petitioner cannot have been convicted of an offense that requires a report to the Virginia CCRE, or of any crime in any other state, the District of Columbia, or the United States or one of its territories, excluding traffic infractions. These 7- and 10-year time periods are calculated from the date of the following events, based on whichever date occurred latest in time:
  - Dismissal of the deferred offense to be sealed;
  - Conviction for the offense to be sealed;
  - Release from incarceration on the offense to be sealed;
  - A finding that the person was in violation of a suspended sentence, probation, or parole related to the offense to be sealed; or,
  - Release from incarceration following a finding that the person was in violation of a suspended sentence, probation, or parole related to the offense to be sealed.<sup>164</sup>

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<sup>160</sup> VA. CODE ANN. § 19.2-392.12(L) (2025). See also Appendix B.

<sup>161</sup> Crime Commission staff reviewed the FY2024 Virginia Crime Code (VCC) Book developed by the Virginia Criminal Sentencing Commission to identify active VCCs in Virginia and found that 62% of Class 5 felony offenses (102 of 165), 61% of Class 6 felony offenses (320 of 523), and 94% of misdemeanor offenses (2,068 of 2,211) will be eligible for sealing. In addition, staff identified 44 larceny offenses (classified by the Virginia Crime Code as “F9,” meaning a felony with a special penalty structure) that will be eligible for sealing. These figures are based on active VCCs as of 2024 and do not include any retired VCCs that are no longer in use. See Virginia Criminal Sentencing Commission (2024). *2024 Virginia Crime Codes*, <http://www.vcsc.virginia.gov/VCCs/2024/2024VCCCodeBook.pdf>.

<sup>162</sup> VA. CODE ANN. § 19.2-392.12(F) (2025).

<sup>163</sup> VA. CODE ANN. § 19.2-392.12(F)(1) (2025).

<sup>164</sup> VA. CODE ANN. § 19.2-392.12(F)(2) (2025).

3. If the offense to be sealed involved the use of or dependence upon alcohol or some other drug, the petitioner must demonstrate their rehabilitation.<sup>165</sup>
4. If the petitioner was ordered to pay restitution on the offense to be sealed, that restitution has been paid in full.<sup>166</sup>
5. The petitioner has not previously had two sealing petitions granted under this section (lifetime limit of two granted petitions).<sup>167</sup>
6. The continued existence and possible dissemination of the records of the offense to be sealed causes or may cause a manifest injustice to the petitioner.<sup>168</sup>

### **WHAT OFFENSES ARE ELIGIBLE FOR AUTOMATIC PETITION SEALING?**

The automatic petition sealing statute includes two categories of offenses that are eligible for sealing. First, convictions, deferred dismissals, and specifically identified ancillary matters for the following nine misdemeanors with an offense date on or after January 1, 1986, are eligible:

- Underage alcohol offenses (§ 4.1-305);
- 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)(1));
- Sale or possession of drug paraphernalia (§ 18.2-265.3(A)); and,
- Disorderly conduct (§ 18.2-415).<sup>169</sup>

Second, the statute allows for the sealing of specifically identified ancillary matters related to a conviction or non-conviction that was automatically sealed, as well as specifically identified ancillary matters related to a possession of marijuana offense that was automatically sealed by statute.<sup>170</sup> For ancillary matters related to a conviction or non-conviction, the offense date for the conviction or non-conviction must have been on or after January 1, 1986.<sup>171</sup> There is no offense date restriction for sealing an ancillary matter related to a possession of marijuana offense.<sup>172</sup>

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<sup>165</sup> VA. CODE ANN. § 19.2-392.12(F)(3) (2025). The statute does not provide specific guidance on how a petitioner is to demonstrate their rehabilitation; thus, this determination will need to be made on a case-by-case basis by the court.

<sup>166</sup> VA. CODE ANN. § 19.2-392.12(F)(4) (2025).

<sup>167</sup> VA. CODE ANN. § 19.2-392.12(F)(5) (2025).

<sup>168</sup> VA. CODE ANN. § 19.2-392.12(F)(6) (2025).

<sup>169</sup> VA. CODE ANN. § 19.2-392.12:1(A) (2025).

<sup>170</sup> VA. CODE ANN. § 19.2-392.12:1(B) (2025). See also VA. CODE ANN. §§ 19.2-392.6:1, 19.2-392.7, and 19.2-392.11 (2025).

<sup>171</sup> VA. CODE ANN. § 19.2-392.12:1(B) (2025).

<sup>172</sup> VA. CODE ANN. § 19.2-392.12:1(B) (2025).

## **WHAT CRITERIA MUST BE MET UNDER THE AUTOMATIC PETITION SEALING STATUTE FOR A PETITION TO BE GRANTED?**

The criteria that must be proven by a petitioner in order for the court to grant an automatic sealing petition will differ depending on what the petition is requesting to seal.<sup>173</sup>

To grant a petition to seal one of the nine specified misdemeanor offenses listed above (conviction or deferred dismissal, along with any related ancillary matter), the court must find that, during the 7-year period following the date of conviction or deferred dismissal, the person (i) has not been convicted of any other crime in Virginia that requires a report to the CCRE and (ii) has not been convicted of a crime in any other state, the District of Columbia, or the United States or one of its territories, excluding traffic infractions.<sup>174</sup> In addition, the person cannot have been convicted of a separate offense ineligible for petition sealing under this statute on the same date as the conviction or deferred dismissal to be sealed.<sup>175</sup>

In order to grant a petition to seal an ancillary matter related to a conviction or non-conviction that has been automatically sealed or a possession of marijuana offense automatically sealed by statute, the court must find that the underlying conviction, non-conviction, or possession of marijuana offense has been sealed.<sup>176</sup> In addition, the person cannot have been convicted of a separate crime that is not eligible for petition sealing under this statute on the same date as the conviction or deferred dismissal to be sealed.<sup>177</sup>

## **IS THERE A LIMIT ON THE NUMBER OF SEALING PETITIONS THAT A PERSON CAN FILE (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. There is no limit on the number of sealing petitions that can be filed under either statute.

## **IS THERE A LIMIT ON THE NUMBER OF SEALING PETITIONS THAT CAN BE GRANTED (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

Yes. A person can only have two petitions granted in their lifetime under the petition sealing statute.<sup>178</sup> However, there is no limit on the number of petitions that can be granted in a person's lifetime under the automatic petition sealing statute.<sup>179</sup>

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<sup>173</sup> VA. CODE ANN. § 19.2-392.12:1(I) and (J) (2025).

<sup>174</sup> VA. CODE ANN. § 19.2-392.12:1(I) (2025).

<sup>175</sup> VA. CODE ANN. § 19.2-392.12:1(D) (2025).

<sup>176</sup> VA. CODE ANN. § 19.2-392.12:1(J) (2025).

<sup>177</sup> VA. CODE ANN. § 19.2-392.12:1(D) (2025).

<sup>178</sup> VA. CODE ANN. § 19.2-392.12(C) (2025).

<sup>179</sup> VA. CODE ANN. § 19.2-392.12:1(E) (2025).

### **IS THERE A LIMIT ON THE NUMBER OF OFFENSES THAT CAN BE INCLUDED IN A SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. Petitions under both the petition sealing statute and the automatic petition sealing statute can include multiple offenses and ancillary matters.<sup>180</sup>

A petition filed under the petition sealing statute may include multiple charges and convictions, along with related ancillary matters, so long as the charges and convictions arose from the same criminal event and are all eligible for sealing.<sup>181</sup> The criminal event is determined by the offense date of the charges or convictions, and not the offense date of any related ancillary matter.<sup>182</sup> For example, if a person was convicted of grand larceny and later found in violation of probation for that conviction, the probation violation is not treated as a separate criminal event. Therefore, the probation violation could be included in a petition to seal the grand larceny conviction.

A petition under the automatic petition sealing statute can include multiple charges, convictions, and ancillary matters, so long as all the offenses included in the petition are eligible for sealing under the statute.<sup>183</sup>

### **ARE THERE ANY COURT FEES OR COSTS TO FILE A SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. There are no court fees or costs to file a sealing petition under either the petition sealing statute or the automatic petition sealing statute.<sup>184</sup>

### **ARE THERE ANY OTHER FEES TO FILE A SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

A person may need to pay other fees as part of the petition process, such as fees for obtaining their criminal history record from VSP,<sup>185</sup> using a notary service when electronically sending their criminal history record to the court,<sup>186</sup> or serving the petition on the Commonwealth's Attorney.<sup>187</sup> To avoid

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<sup>180</sup> VA. CODE ANN. §§ 19.2-392.12(C) and 19.2-392.12:1(D) (2025).

<sup>181</sup> VA. CODE ANN. § 19.2-392.12(C) (2025).

<sup>182</sup> VA. CODE ANN. § 19.2-392.12(C) (2025).

<sup>183</sup> VA. CODE ANN. § 19.2-392.12:1(D) (2025).

<sup>184</sup> VA. CODE ANN. §§ 19.2-392.12(B) and 19.2-392.12:1(C) (2025).

<sup>185</sup> VA. CODE ANN. § 19.2-389(A)(11) (2025). See also Virginia State Police. (2025, March 17). *Virginia criminal history record check*, <https://vsp.virginia.gov/services/criminal-background/>.

<sup>186</sup> See VA. CODE ANN. §§ 19.2-392.12(E) and 19.2-392.12:1(G) (2025).

<sup>187</sup> See VA. CODE ANN. § 17.1-272(A) (2025). A process and service fee of \$12 may be charged to serve the Commonwealth's Attorney with the sealing petition.

any potential service fees, a person can hand-deliver or mail a copy of the sealing petition to the Commonwealth's Attorney.<sup>188</sup>

### **WHERE DOES THE SEALING PETITION HAVE TO BE FILED (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

The petition must be filed in the circuit court in the county or city where the charge, conviction, or related ancillary matter to be sealed was concluded.<sup>189</sup> For example, if a person was convicted of misdemeanor destruction of property in the Richmond City General District Court and later seeks to seal that conviction, the petition should be filed in the Richmond City Circuit Court.

OES is developing a form to assist with drafting a sealing petition, which can then be filed with the circuit court. This form is expected to be available on the Virginia Judicial System website when the sealing laws go into effect.<sup>190</sup>

### **DOES A PERSON NEED TO FILE ANYTHING ELSE WITH THE COURT BESIDES THE SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

Yes. A person also needs to provide a copy of the warrant, summons, or indictment for the charge, conviction, or ancillary matter to be sealed, unless those documents are not reasonably available.<sup>191</sup> If those documents are not available, the petition must state the reason why.<sup>192</sup>

In addition, after the petition is filed, the person must request that the CCRE (VSP) send a copy of their Virginia and national criminal history record to the court.<sup>193</sup> VSP will create an online portal that allows individuals to request their criminal history record be sent electronically to the circuit court. If a person is unable to use the online portal, they will need to submit a written request for VSP to send their criminal history record to the circuit court.<sup>194</sup>

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<sup>188</sup> See VA. CODE ANN. §§ 19.2-392.12(D) and 19.2-392.12:1(F) (2025). If a petition is mailed to the Commonwealth's Attorney, it must be sent by first-class mail, postage pre-paid.

<sup>189</sup> VA. CODE ANN. §§ 19.2-392.12(C) and 19.2-392.12:1(D) (2025).

<sup>190</sup> Virginia's Judicial System. (2025, March 19). *Circuit court civil forms*, <https://www.vacourts.gov/forms/circuit/civil>.

<sup>191</sup> VA. CODE ANN. §§ 19.2-392.12(C) and 19.2-392.12:1(D) (2025).

<sup>192</sup> VA. CODE ANN. §§ 19.2-392.12(C) and 19.2-392.12:1(D) (2025).

<sup>193</sup> VA. CODE ANN. §§ 19.2-392.12(E) and 19.2-392.12:1(G) (2025).

<sup>194</sup> Virginia State Police. (2025, March 17). *Virginia criminal history record check*, <https://vsp.virginia.gov/services/criminal-background/>.

**DOES A PERSON NEED TO BE FINGERPRINTED IN ORDER TO HAVE THEIR CRIMINAL HISTORY RECORD SENT TO THE CIRCUIT COURT (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. A person will only need to provide certain personally identifying information to VSP, such as their name, date of birth, and social security number, in order to request that their criminal history record be sent to the circuit court.<sup>195</sup>

**CAN THE CIRCUIT COURT APPOINT AN ATTORNEY TO ASSIST WITH A PERSON'S SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. The statutes do not authorize the court to appoint counsel to assist a person with filing or litigating a sealing petition. A person can search for private attorneys, legal bar organizations, or other private entities who offer free legal assistance with sealing petitions. Otherwise, a person needing help with the sealing process will need to hire an attorney at their own expense.

**DOES THE CIRCUIT COURT HAVE TO CONDUCT A HEARING ON A SEALING PETITION (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

No. The circuit court may grant or deny a sealing petition without a hearing.<sup>196</sup> The circuit court may grant a sealing order without a hearing under either the petition sealing statute or the automatic petition sealing statute if the Commonwealth's Attorney gives written notice that they do not object to the sealing petition and:

- For petition sealing, states in writing that the offense is eligible for sealing and that the continued existence and possible dissemination of the records of the offense to be sealed causes or may cause a manifest injustice to the petitioner;<sup>197</sup> or,
- For automatic petition sealing, states in writing that the offense is eligible for sealing.<sup>198</sup>

**CAN A CIRCUIT COURT'S DECISION TO DENY OR GRANT A SEALING PETITION BE APPEALED (PETITION SEALING OR AUTOMATIC PETITION SEALING)?**

Yes. Either party can appeal a circuit court's ruling on a sealing petition.<sup>199</sup> Therefore, if the petitioner disagrees with a circuit court's decision to deny a sealing petition, or the Commonwealth's Attorney disagrees with a circuit court's decision to grant a sealing petition, either can appeal as provided by law in civil cases.<sup>200</sup>

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<sup>195</sup> See VA. CODE ANN. §§ 19.2-392.12(E) and 19.2-392.12:1(G) (2025).

<sup>196</sup> VA. CODE ANN. §§ 19.2-392.12(F) and 19.2-392.12:1(H) (2025).

<sup>197</sup> VA. CODE ANN. § 19.2-392.12(G) (2025).

<sup>198</sup> VA. CODE ANN. § 19.2-392.12:1(K) (2025).

<sup>199</sup> VA. CODE ANN. §§ 19.2-392.12(H) and 19.2-392.12:1(L) (2025).

<sup>200</sup> VA. CODE ANN. §§ 19.2-392.12(H) and 19.2-392.12:1(L) (2025).



## CONCLUSION

The sealing statutes that will take effect on July 1, 2026, mark a major shift in how criminal records will be used and shared in Virginia. These laws will impact not only individuals whose criminal records are sealed, but also a wide range of government and private entities throughout the Commonwealth. The Crime Commission will continue its study of criminal record sealing in an effort to promote public awareness, educate and train stakeholders, improve public access to the processes, assess workload and resource requirements, and identify any challenges that arise with the implementation of these statutes.<sup>201</sup>

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<sup>201</sup> 2025 Va. Acts ch. 634 and 671. House Bill 2723, 2025 Sess. (Del. Charniele L. Herring), <https://lis.virginia.gov/bill-details/20251/HB2723>. Senate Bill 1466, 2025 Sess. (Sen. Scott A. Surovell), <https://lis.virginia.gov/bill-details/20251/SB1466>. See enactment clauses 14 through 17.

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Virginia Court Clerks Association

Virginia Department of Criminal Justice Services

Virginia Department of Motor Vehicles

Virginia Department of State Police

Virginia Freedom of Information Advisory Council

Virginia Indigent Defense Commission

Virginia Sexual and Domestic Violence Action Alliance

Virginia State Bar

Virginia Victim Assistance Network

Voyatek

## APPENDIX A: CRIMINAL RECORD SEALING PROCESSES IN VIRGINIA (AS OF 7/1/25)<sup>1</sup>

PROCESS <sup>2</sup>	ELIGIBLE OFFENSES	WAITING PERIOD	CRITERIA FOR RELIEF
Automatic sealing of misdemeanor convictions <sup>3</sup>	Misdemeanor convictions with an offense date on or after January 1, 1986, for: <ul style="list-style-type: none"> <li>• Petit larceny (§ 18.2-96);</li> <li>• Shoplifting (§ 18.2-103);</li> <li>• Trespassing (§ 18.2-119);</li> <li>• Instigating trespass (§ 18.2-120);</li> <li>• Trespass on posted property (§ 18.2-134);</li> <li>• Distribution of marijuana (§ 18.2-248.1(a)(1)); and,</li> <li>• Disorderly conduct (§ 18.2-415).<sup>4</sup></li> </ul>	7 years from the date of conviction. <sup>5</sup>	Person cannot have been convicted of a separate offense on the same date that is not eligible for automatic sealing, <sup>6</sup> and during the 7 year waiting period cannot have been: <ul style="list-style-type: none"> <li>• Convicted of any other crime in Virginia that requires a report to the CCRE;<sup>7</sup> or,</li> <li>• Convicted of a crime in any other state, the District of Columbia, or the United States or one of its territories, excluding traffic infractions.<sup>8</sup></li> </ul>
Automatic sealing of possession of marijuana offenses <sup>9</sup>	Any criminal or civil offense that concluded with a final disposition as a charge or conviction for possession of marijuana (former Va. Code § 18.2-250.1), regardless of the offense date. <sup>10</sup>	None. <sup>11</sup>	None, except the DMV cannot seal any offense in violation of federal regulations or program requirements. <sup>12</sup>
Automatic sealing of misdemeanor non-convictions at case conclusion <sup>13</sup>	All misdemeanors that conclude on or after July 1, 2026, as an: <ul style="list-style-type: none"> <li>• Acquittal; or,</li> <li>• Dismissal with prejudice.<sup>14</sup></li> </ul>	None. Sealed immediately upon conclusion of the case. <sup>15</sup>	Misdemeanor non-convictions must be sealed unless the defendant objects to sealing. <sup>16</sup>
Automatic sealing of felony non-convictions at case conclusion <sup>17</sup>	All felonies that conclude on or after July 1, 2026, as an: <ul style="list-style-type: none"> <li>• Acquittal; or,</li> <li>• Dismissal with prejudice.<sup>18</sup></li> </ul>	None. Sealed immediately upon conclusion of the case. <sup>19</sup>	Felony non-convictions must be sealed if: <ul style="list-style-type: none"> <li>• The defendant makes a verbal request for sealing; and,</li> <li>• The Commonwealth's Attorney concurs with the sealing request.<sup>20</sup></li> </ul>
Automatic sealing of previously concluded misdemeanor non-convictions <sup>21</sup>	All misdemeanors with an offense date on or after January 1, 1986, that concluded as an: <ul style="list-style-type: none"> <li>• Acquittal;</li> <li>• Nolle prosequi; or,</li> <li>• Dismissal, excluding deferred dismissals.<sup>22</sup></li> </ul>	3 years from the date of final disposition. <sup>23</sup>	The person's criminal history record cannot include: <ul style="list-style-type: none"> <li>• Any convictions that are reportable to the CCRE;<sup>24</sup> or,</li> <li>• Any arrests or charges for a crime the requires a report to the CCRE, excluding traffic infractions, within the past 3 years.<sup>25</sup></li> </ul>
Automatic sealing of traffic infractions <sup>26</sup>	All traffic infractions under Title 46.2 with an offense date on or after January 1, 1986, excluding criminal offenses. <sup>27</sup>	11 years from date of final disposition. <sup>28</sup>	Traffic infractions must be sealed unless such sealing is: <ul style="list-style-type: none"> <li>• Prohibited under federal or state law;<sup>29</sup> or,</li> <li>• In violation of a federal regulation or program requirement.<sup>30</sup></li> </ul>

PROCESS <sup>2</sup>	ELIGIBLE OFFENSES	WAITING PERIOD	CRITERIA FOR RELIEF
Petition sealing of misdemeanor and felony convictions, deferred dismissals, and related ancillary matters <sup>31</sup>	<p>Convictions and deferred dismissals for certain classes of offenses with an offense date on or after January 1, 1986, with a variety of exclusions:<sup>32</sup></p> <ul style="list-style-type: none"> <li>• Misdemeanors;</li> <li>• Class 5 and 6 felonies;</li> <li>• Grand larceny and offenses punishable as larceny; and,</li> <li>• Related ancillary matters.<sup>33</sup></li> </ul>	<p>7 years for misdemeanors and 10 years for felonies, beginning from the latest date of the following events:</p> <ul style="list-style-type: none"> <li>• Dismissal of the deferred charge;</li> <li>• Conviction;</li> <li>• Release from incarceration on the charge or conviction;</li> <li>• Finding of a violation of a suspended sentence, probation, or parole; or,</li> <li>• Release from incarceration after a finding of a violation of a suspended sentence, probation, or parole.<sup>34</sup></li> </ul>	<p>In addition to the waiting period:</p> <ul style="list-style-type: none"> <li>• No prior convictions for a Class 1 or 2 felony or any other crime punishable by life;</li> <li>• No Class 3 or 4 felony convictions in the past 20 years;</li> <li>• No other felony conviction within the past 10 years;</li> <li>• Demonstrate rehabilitation if the charge or conviction involved the use or dependence on alcohol or any other narcotic drug;</li> <li>• Restitution paid in full;</li> <li>• Cannot have had two sealing petitions previously granted under the general sealing statute; and,</li> <li>• Petitioner must prove that the continued existence and possible dissemination of the conviction would constitute a manifest injustice.<sup>35</sup></li> </ul>
Automatic petition sealing of misdemeanor convictions, deferred dismissals, and related ancillary matters, as well as ancillary matters related to previously sealed offenses <sup>36</sup>	<p>Misdemeanor convictions and deferred dismissals with an offense date on or after January 1, 1986, for:</p> <ul style="list-style-type: none"> <li>• Underage alcohol (§ 4.1-305);</li> <li>• Petit larceny (§ 18.2-96);</li> <li>• Shoplifting (§ 18.2-103);</li> <li>• Trespassing (§ 18.2-119);</li> <li>• Instigating trespass (§ 18.2-120);</li> <li>• Trespass on posted property (§ 18.2-134);</li> <li>• Distribution of marijuana (§ 18.2-248.1(a)(1));</li> <li>• Drug paraphernalia (§ 18.2-265.3(A)); and,</li> <li>• Disorderly conduct (§ 18.2-415).<sup>37</sup></li> </ul>	7 years from the date of conviction or deferred dismissal <sup>38</sup>	<p>Person cannot have been convicted of a separate offense on the same date that is not eligible for automatic sealing,<sup>39</sup> and during the 7 year waiting period cannot have been:</p> <ul style="list-style-type: none"> <li>• Convicted of any other crime in Virginia that requires a report to the CCRE;<sup>40</sup> or,</li> <li>• Convicted of a crime in any other state, the District of Columbia, or the United States or one of its territories, excluding traffic infractions.<sup>41</sup></li> </ul>
	<p>Ancillary matters related to the following offenses that were previously automatically sealed:</p> <ul style="list-style-type: none"> <li>• Convictions (§ 19.2-392.7);</li> <li>• Non-convictions (§ 19.2-392.11); and,</li> <li>• Possession of marijuana offenses (§ 19.2-392.6:1).<sup>42</sup></li> </ul>	None <sup>43</sup>	Ancillary matters must be sealed if the related underlying offense was automatically sealed. <sup>44</sup>

Source: Table prepared by Virginia State Crime Commission staff.

<sup>1</sup> The sealing statutes will take effect on July 1, 2026, unless that date is changed with future legislation. See VA. CODE ANN. §§ 19.2-392.5(A) and 19.2-392.16 (2025). Sealing applies to the records of the Central Criminal Records Exchange (Virginia State Police), any state courts, any law enforcement agency in Virginia, and the Virginia Department of Motor Vehicles, as well as records collected and shared by third-parties. See also VA. CODE ANN. § 19.2-392.5(B) (2025). Sealing applies to the records of adults and juveniles tried as adults, but not juveniles. See also VA. CODE ANN. § 19.2-392.13(C) and (C1) (2025). Even if a record is sealed, that record still exists and can be disclosed for a variety of purposes.

<sup>2</sup> These sealing processes are different than the expungement process which currently exists under Virginia law. See VA. CODE ANN. §§ 19.2-392.1 through 19.2-392.4 (2025). Certain conviction and non-conviction criminal records are eligible for sealing (see table above), whereas only non-conviction criminal records are eligible for expungement. See VA. CODE ANN. § 19.2-392.2 (2025). Sealing is intended to prohibit public access to criminal records (VA. CODE ANN. § 19.2-392.5(A) (2025)), whereas expungement is intended to prohibit nearly all access to a record (6VAC20-120-20 and 6VAC20-120-80 (2025)). Sealed records can be accessed for numerous reasons (VA. CODE ANN. § 19.2-392.13(C) (2025)), whereas expunged records can only be accessed for very limited purposes (VA. CODE ANN. §§ 19.2-392.3 & 19.2-392.3:1 (2025)).

<sup>3</sup> VA. CODE ANN. § 19.2-392.6 and 19.2-392.7 (2025).

<sup>4</sup> VA. CODE ANN. § 19.2-392.6(A) (2025).

<sup>5</sup> VA. CODE ANN. § 19.2-392.6(B) (2025).

<sup>6</sup> VA. CODE ANN. § 19.2-392.6(C) (2025).

<sup>7</sup> VA. CODE ANN. § 19.2-392.6(B) (2025). See also VA. CODE ANN. § 19.2-390(A).

<sup>8</sup> VA. CODE ANN. § 19.2-392.6(B) (2025).

<sup>9</sup> VA. CODE ANN. § 19.2-392.6:1 (2025).

<sup>10</sup> VA. CODE ANN. § 19.2-392.6:1(A) (2025).

<sup>11</sup> VA. CODE ANN. § 19.2-392.6:1(A) (2025).

<sup>12</sup> VA. CODE ANN. § 19.2-392.6:1(B) (2025).

<sup>13</sup> VA. CODE ANN. § 19.2-392.8(A) (2025). See also § 19.2-392.10 (2025).

<sup>14</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>15</sup> VA. CODE ANN. § 19.2-392.8(A) (2025).

<sup>16</sup> VA. CODE ANN. § 19.2-392.8(A) (2025). Regardless of whether the non-conviction is sealed or not, the person may still seek to have the offense expunged. VA. CODE ANN. § 19.2-392.8(D) (2025).

<sup>17</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>18</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>19</sup> VA. CODE ANN. § 19.2-392.8(B) (2025).

<sup>20</sup> VA. CODE ANN. § 19.2-392.8(B) (2025). Regardless of whether the non-conviction is sealed or not, the person may still seek to have the offense expunged. VA. CODE ANN. § 19.2-392.8(D) (2025).

<sup>21</sup> VA. CODE ANN. § 19.2-392.11 (2025).

<sup>22</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>23</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>24</sup> VA. CODE ANN. § 19.2-392.11(A) (2025). An offense that has been sealed is not treated as a conviction for eligibility purposes under this process.

<sup>25</sup> VA. CODE ANN. § 19.2-392.11(A) (2025).

<sup>26</sup> VA. CODE ANN. § 19.2-392.17 (2025).

<sup>27</sup> VA. CODE ANN. § 19.2-392.17(A) (2025).

<sup>28</sup> VA. CODE ANN. § 19.2-392.17(A) (2025).

<sup>29</sup> VA. CODE ANN. § 19.2-392.17(A) (2025).

<sup>30</sup> VA. CODE ANN. § 19.2-392.17(B) (2025).

<sup>31</sup> VA. CODE ANN. § 19.2-392.12 (2025). See also VA. CODE ANN. § 19.2-392.12(B) (2025). A person does not need to pay any court fees or costs to file a petition; however, a person may need to pay other fees to obtain their criminal history record or serve the petition.

<sup>32</sup> VA. CODE ANN. § 19.2-392.12(L) (2025). See also Appendix B for a list of exclusions.

<sup>33</sup> VA. CODE ANN. § 19.2-392.12(A) (2025). See also VA. CODE ANN. § 19.2-392.5(A) (2025). Ancillary matter is defined as “any (i) violation or alleged violation of the terms and conditions of a suspended sentence, probation, or parole; (ii) violation or alleged violation of contempt of court; (iii) charge or conviction for failure to appear; or (iv) appeal from a bail, bond, or recognizance order.”

<sup>34</sup> VA. CODE ANN. § 19.2-392.12(F)(2) (2025).

<sup>35</sup> VA. CODE ANN. § 19.2-392.12(F) (2025).

<sup>36</sup> VA. CODE ANN. § 19.2-392.12:1 (2025). See also VA. CODE ANN. § 19.2-392.12:1(C) (2025). A person does not need to pay any court fees or costs to file a petition; however, a person may need to pay other fees to obtain their criminal history record or serve the petition.

<sup>37</sup> VA. CODE ANN. § 19.2-392.12:1(A) (2025).

<sup>38</sup> VA. CODE ANN. § 19.2-392.12:1(I) (2025).

<sup>39</sup> VA. CODE ANN. § 19.2-392.12:1(D) (2025).

<sup>40</sup> VA. CODE ANN. § 19.2-392.12:1(I) (2025). *See also* VA. CODE ANN. § 19.2-390(A) (2025).

<sup>41</sup> VA. CODE ANN. § 19.2-392.12:1(I) (2025).

<sup>42</sup> VA. CODE ANN. § 19.2-392.12:1(B) (2025). *See also* § 19.2-392.5(A) (2025). Ancillary matter is defined as “any (i) violation or alleged violation of the terms and conditions of a suspended sentence, probation, or parole; (ii) violation or alleged violation of contempt of court; (iii) charge or conviction for failure to appear; or (iv) appeal from a bail, bond, or recognizance order.”

<sup>43</sup> There is no waiting period for ancillary matters because the waiting period for the related automatically sealed conviction or non-conviction will have passed, and there is no waiting period for automatically sealed marijuana offenses.

<sup>44</sup> VA. CODE ANN. § 19.2-392.12:1(J) (2025).

## APPENDIX B: PETITION SEALING – INELIGIBLE AND EXCLUDED OFFENSES (AS OF 7/1/25)

### CLASSES OF OFFENSES INELIGIBLE FOR PETITION SEALING (§ 19.2-392.12(A))

- Class 1, 2, 3, and 4 felonies; and,
- Unclassified felonies, with the exception of grand larceny (§ 19.2-95) and offenses deemed punishable as larceny.

### CLASSES OF OFFENSES EXCLUDED FROM PETITION SEALING (§ 19.2-392.12(L))

1. Any violation of any offense under [§ 9.1-902](#) for which registration with the Sex Offender and Crimes Against Minors Registry is required;
2. Any violation of any offense listed under subsection C of [§ 17.1-805](#) (violent crimes);
3. Any violation of any felony offense not listed under subsection C of [§ 17.1-805](#) where the person utilized a firearm, as defined in [§ 18.2-308.2:2](#), as part of the transaction or occurrence in the underlying offense to be sealed, unless such person's right to possess, transport, or carry a firearm, ammunition for a firearm, or a stun weapon has been restored pursuant to [§ 18.2-308.2](#);
4. Any violation of an emergency, preliminary, or permanent protective order issued pursuant to Article 4 ([§ 16.1-246 et seq.](#)) of Chapter 11 of Title 16.1 or Chapter 9.1 ([§ 19.2-152.7:1 et seq.](#)) of Title 19.2, or any family abuse protective order under [§ 16.1-279.1](#);
5. Any violation of any hate crime as defined in [§ 52-8.5](#);
6. Any violation of Article 9 of Chapter 65 of Title 3.2 ([§ 3.2-6570 et. seq.](#)) (cruelty to animals);
7. Any violation of [Title 24.2](#) (election laws);
8. Any violation involving the possession and distribution of flunitrazepam pursuant to [§ 18.2-251.2](#) or the possession of Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate) pursuant to [§ 18.2-250](#);
9. Any violation where a person was found not guilty by reason of insanity;
10. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory before the fact, or accessory after the fact for an ineligible offense;
11. Any conspiracy, attempt, or solicitation, and any principal in the second degree, accessory before the fact, or accessory after the fact where the completed substantive offense would be punishable as a Class 1, 2, 3, or 4 felony or by a term of imprisonment of more than 10 years, with the exception of a violation [§ 18.2-95](#) or any other felony offense where the defendant is deemed guilty of larceny and punished as in [§ 18.2-95](#);

12. Any violation of any offense where the person was prohibited by the court from possessing or owning a companion animal as a result of the transaction or occurrence in the underlying offense to be sealed, while such prohibition remains in effect;
13. Any violation of Article 6 of ([§ 3.2-6537 et seq.](#)) of Chapter 65 of Title 3.2 that involved a dangerous or vicious dog as a part of the transaction or occurrence in the underlying offense to be sealed, while the person continues to own or possess such dog;
14. Any violation of Article 7 ([§ 18.2-61 et seq.](#)) of Chapter 4 of Title 18.2;
15. Any violation of Article 3 ([§ 18.2-346 et seq.](#)) of Chapter 8 of Title 18.2, with the exception of [§ 18.2-346](#), former subsection A of § 18.2-346, and [§ 18.2-347](#);
16. Any violation of Article 4 ([§ 18.2-362 et seq.](#)) of Chapter 8 of Title 18.2, with the exception of [§§ 18.2-365](#), [18.2-371.2](#), [18.2-371.3](#), and [18.2-371.4](#);
17. Any violation of Article 5 ([§ 18.2-372 et seq.](#)) of Chapter 8 of Title 18.2, with the exception of [§ 18.2-388](#); and
18. Any offense where the victim of the crime to be sealed was a family or household member, as defined in [§ 16.1-228](#), of the person.



**INDIVIDUAL OFFENSES EXCLUDED FROM PETITION SEALING (§ 19.2-392.12(L))**

CODE SECTION	SECTION TITLE
<a href="#">§ 4.1-309.1</a>	Possessing or consuming alcoholic beverage while operating a school bus; penalty.
<a href="#">§ 5.1-13</a>	Operation of aircraft while under influence of intoxicating liquors or drugs; reckless operation.
<a href="#">§ 18.2-36</a>	How involuntary manslaughter punished.
<a href="#">§ 18.2-36.1</a>	Certain conduct punishable as involuntary manslaughter.
<a href="#">§ 18.2-36.2</a>	Involuntary manslaughter; operating a watercraft while under the influence; penalties.
<a href="#">§ 18.2-47</a>	Abduction and kidnapping defined; forced labor; punishment.
<a href="#">§ 18.2-49.1(A)</a>	Violation of court order regarding custody and visitation; penalty
<a href="#">§ 18.2-51.5</a>	Maiming, etc., of another resulting from operating a watercraft while intoxicated; penalty.
<a href="#">§ 18.2-57(C)</a>	Felony assault or assault and battery against certain public servants.
<a href="#">§ 18.2-57.2</a>	Assault and battery against a family or household member; penalty.
<a href="#">§ 18.2-57.3</a>	Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.
<a href="#">§ 18.2-59.1</a>	Sexual extortion; penalty.
<a href="#">§ 18.2-60</a>	Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers; penalty.
<a href="#">§ 18.2-60.3</a>	Stalking; penalty.
<a href="#">§ 18.2-60.5</a>	Unauthorized use of electronic tracking device; penalty.
<a href="#">§ 18.2-130</a>	Peeping or spying into dwelling or enclosure.
<a href="#">§ 18.2-130.1</a>	Peeping or spying into dwelling or occupied building by electronic device or unmanned aircraft system; penalty.
<a href="#">§ 18.2-144</a>	Maiming, killing or poisoning animals, fowl, etc.
<a href="#">§ 18.2-144.1</a>	Prohibition against killing or injuring police animals; penalty.
<a href="#">§ 18.2-154</a>	Shooting at or throwing missiles, etc., at train, car, vessel, etc.; penalty.
<a href="#">§ 18.2-178.1</a>	Financial exploitation of vulnerable adults; penalty.
<a href="#">§ 18.2-266</a>	Driving motor vehicle, engine, etc., while intoxicated, etc.
<a href="#">§ 18.2-266.1</a>	Persons under age 21 driving after illegally consuming alcohol; penalty

CODE SECTION	SECTION TITLE
<a href="#">§ 18.2-268.3</a>	Refusal of tests; penalties; procedures.
<a href="#">§ 18.2-282.1</a>	Brandishing a machete or other bladed weapon with intent to intimidate; penalty.
<a href="#">§ 18.2-324.2</a>	Use of unmanned aircraft system for certain purposes; penalty.
<a href="#">§ 18.2-346</a> (former subsection B only)	Prostitution; commercial sexual conduct; penalties.
<a href="#">§ 18.2-405</a>	What constitutes a riot; punishment.
<a href="#">§ 18.2-406</a>	What constitutes an unlawful assembly; punishment.
<a href="#">§ 18.2-472.1</a>	Providing false information or failing to provide registration information; penalty; prima facie evidence.
<a href="#">§ 19.2-62</a>	Interception, disclosure, etc., of wire, electronic or oral communications unlawful; penalties; exceptions.
<a href="#">§ 29.1-738</a>	Operating boat or manipulating water skis, etc., in reckless manner or while intoxicated, etc.
<a href="#">§ 29.1-738.02</a>	Persons under age twenty-one operating watercraft after illegally consuming alcohol; penalty.
<a href="#">§ 29.1-738.2</a>	Consent to blood or breath test.
<a href="#">§ 37.2-912</a>	Conditional release; criteria; conditions; reports; penalty.
<a href="#">§ 40.1-100.2</a>	Employment involving sexually explicit visual material prohibited.
<a href="#">§ 40.1-103</a>	Cruelty and injuries to children; penalty; abandoned infant.
<a href="#">§ 46.2-341.24</a>	Driving a commercial motor vehicle while intoxicated, etc.
<a href="#">§ 46.2-341.26:3</a>	Refusal of tests; issuance of out-of-service orders; disqualification.

Source: Table prepared by Virginia State Crime Commission staff.