

## Expungement FAQs

- Expungement General Information
  - What is expungement?
    - Expungement means that a record is removed from public inspection and normal access. Expunging a record does not eliminate the record. An expunged record will be physically sealed and placed in an area that is not accessible by the public. Similarly, electronic access to an expunged record will also be restricted.
  - Is expungement available for both adult and juvenile offenses?
    - Yes, however the expungement processes are different for adult and juvenile offenses. The FAQs in this document focus on the expungement of adult offenses as set forth in [Va. Code § 19.2-392.2\(A\)](#). Note that the process for expunging an adult offense that occurred as a result of a false or stolen identity as set forth in [Va. Code § 19.2-392.2\(B\)](#) is a slightly different process. For information on expunging juvenile offenses, see [Va. Code § 16.1-306](#).
  - What records are expunged?
    - Expungement applies to records held by the Central Criminal Records Exchange (CCRE) maintained by Virginia State Police, any Virginia court, any Virginia law enforcement agency, and any other Virginia agency or individual known to have records relating to the expunged charge.
  - Does expungement apply to records in possession of the federal government?
    - No. The Virginia expungement process does 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.
  - Is expungement the same as sealing?
    - No. While both expungement and sealing remove records from public access, there are four major differences: (i) the process to expunge or seal a charge, (ii) which charges can be expunged or sealed, (iii) when expunged or sealed records can be accessed or disseminated, and (iv) limits on the number of expungement or sealing petitions that can be granted.
      - Expungement: Requires a person to file a petition with the circuit court and only applies to charges that did not result in a conviction (acquittal, nolle prosequi, and “otherwise dismissed” offenses). There is no automatic expungement. Expunged records can only be accessed for four specific reasons. There is no limit to the number of expungement petitions that a person can have granted in their lifetime.
      - Sealing: May be accomplished automatically or by filing a petition with the circuit court. Sealing applies to convictions, deferred

dismissals, and charges that did not result in a conviction (e.g., acquittal, nolle prosequi, and dismissals with prejudice), depending on the sealing process. Sealed records can be accessed or disseminated for 28 specified reasons, and can be disseminated between any Virginia state government agency for the purposes of administering any duties or functions required by state or federal law. There is a lifetime limit of two petitions that can be granted under the general petition sealing process in Va. Code 19.2-392.12; however, there are no limits placed on the number of charges which can be sealed in the other sealing processes.

- Is expungement the same as a pardon?
  - No. A [pardon](#) is issued by the Governor and is a separate process from expungement.
- Does a pardon mean that an offense can be expunged?
  - It depends on the type of pardon. If a person was granted an absolute pardon for an offense, that offense can be expunged. However, offenses related to simple or conditional pardons cannot be expunged.
- What offenses qualify for expungement?
  - Expungement only applies to criminal charges or civil offenses that did not result in a conviction (acquittal, nolle prosequi, and “otherwise dismissed” offenses). However, expungement does not apply to certain charges that concluded without a conviction, such as deferred dismissals (unless expressly allowed in the final order) or a finding of not guilty by reason of insanity.
  - The phrase “otherwise dismissed” includes cases which all charges conclude in dismissal. “Otherwise dismissed” may also apply when a person is charged with one offense but convicted of another offense (the person could seek to expunge the original charge, but not the conviction). However, the original charge must be “completely separate and unrelated” to the charge the petitioner was convicted of, and the charges must not share a common nucleus of operative facts (*See Williams v. Commonwealth*, 302 Va. 172, 885 S.E.2d 457 (Va. Sup. Ct., April 20, 2023)).
  - In addition, [Va. Code § 19.2-298.02](#) sets forth a process where certain charges can be expunged by agreement of the Commonwealth and defendant.
- Does a person whose record was expunged need to disclose the expunged offense?
  - No, a person generally does not need to disclose an expunged offense. However, because the expungement statutes apply only to government and private entities in Virginia, a person may be required to disclose an expunged offense in response to another state or federal government entity or to a private employer outside of Virginia.
- Can a person be asked to disclose an expunged offense?
  - It depends on who is making the request. Employers, educational institutions, and state and local governments in Virginia cannot require a

person to disclose an expunged record. However, because these restrictions only apply to these specified entities in Virginia, a person may be asked to disclose an expunged offense in response to another state or federal government entity, a private employer outside of Virginia, or for some other reason in Virginia where such a request is not prohibited.

- Can a criminal record be used or shared after it has been expunged?
  - An expunged record can be used or shared for the following reasons, provided that a court order has been entered allowing access to the record:
    - The record is needed by a law-enforcement agency for purposes of employment application with that agency;
    - The record is needed by a law-enforcement agency for a pending criminal investigation, if the investigation will be jeopardized or life or property will be endangered without immediate access to the record;
    - In a civil litigation lawsuit against a locality or a law-enforcement officer arising out of or relating to expunged charges, for use in the civil litigation by any party; and,
    - Lastly, the person whose record was expunged can access their own expunged record.
- Is there a penalty for disclosing an expunged offense?
  - Yes. Any person who has access to an expunged record and willfully discloses any information from it is guilty of a Class 1 misdemeanor. However, if the person who discloses information regarding an expunged record received the record from the person who was charged (or their attorney), they are not in violation of the law.
- Can expunged offenses be used in a subsequent criminal case?
  - Yes, but only in one limited circumstance. A Commonwealth's Attorney can petition the court to access an expunged record related to a pending criminal investigation, but the Commonwealth must show that the investigation will be jeopardized, or that life or property will be endangered, without immediate access to the record.
- Can expunged records be obtained via a Freedom of Information Act (FOIA) request to law enforcement?
  - No. Law enforcement cannot provide expunged records in response to a FOIA request, unless the disclosure of such records is otherwise permitted by law.
- Are expunged records publicly available in a court's online case information system?
  - No. Expunged records are not publicly available in a court's online case information system.
- Are private companies notified when an offense is expunged?
  - No. Private companies are not notified by the government when an offense is expunged. However, certain federal statutes require that consumer reporting agencies maintain accurate criminal record information. For additional information on consumer reporting agencies and the federal

regulations, see the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) and the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.).

- Can a person obtain a copy of their own expunged record?
  - Yes. The person whose record was expunged can file a petition with the court to review and copy their own expunged record. While some courts currently allow this practice, an amendment to expungement law takes effect on July 1, 2026, to specifically allow a person to access to their own expunged record.
- Expungement Petition Process
  - What processes are available for expunging a criminal record?
    - There is only a petition process to expunge a criminal record. There is no automatic expungement process. Note that some parts of the petition process will change after July 1, 2026. The answers to these FAQs note any differences between the pre- and post-July 1, 2026 processes.
  - Where is an expungement petition filed?
    - The petition must be filed in the circuit court in the county or city where the charge to be expunged was concluded. For example, if a person was acquitted of a misdemeanor destruction of property charge in the Richmond City General District Court, they can seek to expunge that charge by filing a petition in the Richmond City Circuit Court.
    - The expungement petition form is available on OES's circuit court civil forms website: <https://www.vacourts.gov/forms/circuit/civil>.
  - Is there a fee or cost to file an expungement petition?
    - Before July 1, 2026, a person must pay a filing fee with the court to file the expungement petition. If the expungement is granted, the court costs will be refunded to the petitioner; however, other costs are not refunded, such as the service fee or any money paid to obtain a copy of their criminal history record.
    - After July 1, 2026, there will be no fee to file an expungement petition; however, a person may still need to pay service fees or other costs for obtaining a copy of their criminal history record.
  - Are there any other fees to file an expungement petition?
    - A person may need to pay other fees as part of the petition process, such as fees for being fingerprinted (before July 1, 2026), obtaining their criminal history record from VSP (before and after July 1, 2026), using a notary service when electronically sending their criminal history record to the court (after July 1, 2026), or serving the petition on the Commonwealth's Attorney (before and after July 1, 2026). To avoid potential service fees, a person can hand-deliver or mail a copy of the expungement petition to the Commonwealth's Attorney, so long as the Commonwealth's Attorney agrees to receive informal service.
  - What criteria must be met for an expungement petition to be granted?
    - The petitioner must demonstrate that the continued existence and possible dissemination of the criminal charge or civil offense which they are seeking to expunge is causing or may cause circumstances which constitute a manifest injustice. This means that the record has, or may

have, an impact on the person's ability to gain employment, housing, or education. This must be more than a subjective belief, but does not require an actual, already-experienced impact to meet this burden.

- However, if the person has no prior criminal record and the arrest was for a misdemeanor violation or the charge was for a civil offense, the person shall be entitled to expungement, unless the Commonwealth's Attorney can show good cause why it should not be expunged.
- Can an expungement petition be granted without a hearing?
  - Yes. If the Commonwealth's Attorney of the county or city in which the petition is filed states in writing that they do not object to the petition and, if the charge to be expunged is a felony, stipulates that the charge being expunged is causing or may cause circumstances which constitute a manifest injustice to the petitioner, the court may expunge the charge without a hearing.
- Is there a limit on the number of expungement petitions a person can file?
  - No. There is no limit on the number of expungement petitions a person can file.
- Is there a limit on the number of expungement petitions that can be granted?
  - No. There is no limit on the number of expungement petitions that can be granted to a person.
- Does a person need to file anything else with the circuit court besides the expungement petition?
  - Yes. A person also needs to file a copy of the warrant, summons, or indictment of the criminal charge or civil offense to be expunged, unless those documents are not reasonably available. If those documents are not available, the petition must state the reason why.
  - In addition, after the petition is filed, the person must request that the Central Criminal Records Exchange (maintained by the Virginia State Police) send a copy of their Virginia criminal history record to the court. Prior to July 1, 2026, a person will need to be fingerprinted in order to have this criminal history record sent to the court. Beginning July 1, 2026, Virginia State Police will offer an online portal which allows individuals to request that their criminal history record be sent electronically to the circuit court without a fingerprint. The person will be able to enter their name and other identifying information in the portal so that the Virginia State Police can identify their criminal history record and send it to the court. If a person is unable to use the online portal, they will need to submit a written request for Virginia State Police to send their criminal history record to the court.
    - Even if you are seeking to expunge a civil offense, you will need to request a copy of your criminal history record.
- Does a person need to be fingerprinted in order to have their criminal history record sent to the circuit court?
  - Prior to July 1, 2026, a person will need to be fingerprinted. However, beginning July 1, 2026, Virginia State Police will offer an online portal

which allows individuals to request that their criminal history record be sent electronically to the circuit court without a fingerprint.

- Can the circuit court appoint an attorney to assist with a person's expungement petition?
  - No. The expungement statute does not authorize the court to appoint counsel to assist a person with filing or litigating an expungement petition. A person can search for private attorneys, legal bar organizations, legal aid organizations, or other private entities who offer free legal assistance with expungement petitions. Otherwise, a person who needs help with the expungement process will have to hire an attorney at their own expense.
- Can a circuit court's decision to deny or grant an expungement petition be appealed?
  - Yes. Either party can appeal a circuit court's ruling on an expungement petition. Therefore, if the petitioner disagrees with a circuit court's decision to deny an expungement petition, or the Commonwealth's Attorney disagrees with a circuit court's decision to grant an expungement petition, either can appeal as provided by law in civil cases.