

What happens when my record is sealed?

What is sealing?

The commonwealth keeps two copies of every criminal record. One is kept by the Virginia State Police and the other is kept by the court where the person was charged. The new law defines sealing as prohibiting the dissemination sharing of these two records - which means that the court won't tell anyone you were charged except in certain circumstances where there is a court order (see below).

Can sealed records still be accessed in some situations?

Yes. The General Assembly created a list of situations in which certain individuals or government agencies can access sealed records but only if they obtain a court order to do so. Police and prosecutors cannot view sealed records unless they get a court order.

Here are a few situations when a court order can be obtained to access a sealed criminal record:

- Child custody proceedings
- Protective order proceedings
- To impeach the credibility of a witness testifying in a court proceeding
- To determine a person's eligibility to possess a firearm
- To determine a person's eligibility to serve as a juror
- The Department of Social Services and local departments of social services may request such records to carry out their duties.
- You can also request a copy of your own sealed record.

What do you mean by "most" potential employers?

Some employers require the disclosure of all records—even sealed records. If you are applying to work (or even volunteer) for the Virginia State Police or a local police department or sheriff's office and you do not disclose your sealed record, you can be convicted of perjury, a felony. Other employers may also require the disclosure of sealed records if other state or federal laws say disclosure is necessary, or if disclosure is in the interest of national security. Because perjury requires a willful act, the potential employer has an obligation to tell you that you must disclose the sealed record.

Most potential employers will not be able to require you to disclose a sealed record. An employer who asks about sealed records when the law does not require you to disclose it will be guilty of a Class 1 misdemeanor.

What can I do if my record is sealed but it still appears on background checks?

The new law addresses this situation by requiring companies that buy and sell criminal records to delete sealed records. The new law requires these companies to register with the Virginia State Police and keep their records updated. If a company refuses to delete your sealed record, under the new law you or the Attorney General of Virginia can file a lawsuit and recover money damages from the company.

I have a misdemeanor non-conviction. Am I eligible to seal my record?

Automatic Sealing

If you were charged but not convicted of a misdemeanor offense, your record may be automatically sealed when the new law takes effect on October 1, 2025. A non-conviction includes the following outcomes:

- Acquittal (not guilty)
- Nolle prosequi (dropped)
- Dismissal (but not deferral-dismissal, which happens only after a court has found enough evidence to convict you)

Additional Requirements

Additional requirements for misdemeanor non-conviction sealing:

- You have never been convicted of any crime in Virginia
- You were not charged or arrested in Virginia in the last three years (before Oct. 1, 2025)

Asking the court to seal your record

If you have misdemeanor—or felony—non-convictions on your record but do not meet the requirements above, you can petition for expungement under current law. If you cannot afford to hire an attorney, contact any LAJC office to see if you qualify for our help.

Lifetime Limits

The new law imposes a lifetime limit on the number of times a person can seal convictions and deferral-dismissals. Each person can seal convictions and deferrals from only two sentencing events. You may have been convicted of multiple charges by a court on the same day—if so, these count as one sentencing event. The lifetime limit does not apply to non-convictions (dismissals, acquittals, nolle prosequi).