

Filing a Petition to Seal or Expunge a Criminal Record

A person may be able to have the record of a Vermont criminal conviction or charge either sealed or expunged under certain circumstances. There are different types of sealing and expungement and the conditions are somewhat different for each type.

1. Petition for Sealing

A person may file a petition requesting sealing if convicted of a qualifying crime (13 V.S.A. § 7602). Information about qualifying crimes is provided in section 2 of this document. Please be advised: If you have a pending criminal case, the court cannot act on a petition to seal until after the pending charge is resolved.

The court will grant a petition for sealing under these circumstances:

A. The court shall grant a petition to seal if the petitioner and the prosecutor's office stipulate or agree to granting the petition.

B. Petitions for sealing qualifying misdemeanors shall be granted if the following conditions are met:

- i. At least **three** years have elapsed since the date on which the person completed the terms and conditions of the sentence.
- ii. Any restitution and surcharges ordered by the court for any crime of which the person has been convicted have been paid in full.
- iii. The prosecuting office has failed to show that sealing would be contrary to the interest of justice.

C. Petitions for sealing qualifying felonies shall be granted if the following conditions are met:

- i. At least **seven** years have elapsed since the date on which the person completed the terms and conditions of the sentence.
- ii. Any restitution and surcharges ordered by the court for any crime of which the person has been convicted have been paid in full.
- iii. The prosecuting office has failed to show that sealing would be contrary to the interest of justice.

D. Petitions to seal qualifying DUI misdemeanors shall be granted if the following conditions are met:

- i. At least **ten** years have elapsed since the date on which the person completed the terms and conditions of the sentence.
- ii. Any restitution and surcharges ordered by the court for any crime of which the person has been convicted have been paid in full.
- iii. The petitioner is not the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. Chapter 39.
- iv. The prosecuting office has failed to show that sealing would be contrary to the interest of justice.

2. Crimes that Qualify for Sealing

All misdemeanor offenses qualify for sealing, except for the misdemeanor offenses listed below in subsection A. Some felony offenses qualify for sealing and these are listed below in subsection B.

A. The following misdemeanor offenses do not qualify for sealing:

- i. a listed crime as defined in subdivision 5301(7) of title 13
- ii. a violation of chapter 64 of title 13 relating to sexual exploitation of children
- iii. a violation of section 1030 of title 13 relating to a violation of an abuse prevention order, or of an order against stalking or sexual assault, or of a protective order concerning contact with a child
- iv. a violation of chapter 28 of title 13 related to abuse, neglect, and exploitation of a vulnerable adult
- v. a violation of subsection 2605(b) or (c) of title 13 related to voyeurism
- vi. a violation of subdivisions 352(1-10) of title 13 related to cruelty to animals
- vii. a violation of section 5409 of title 13 related to failure to comply with sex offender registry requirements
- viii. a violation of section 1455 of title 13 related to hate motivated crimes
- ix. a violation of subsection 1304(a) of title 13 related to cruelty to a child
- x. a violation of section 1305 of title 13 related to cruelty by a

- person having custody of another
- xi. a violation of section 1306 of title 13 related to mistreatment of persons with impaired cognitive function
- xii. a violation of section 3151 of title 13 related to female genital mutilation
- xiii. a violation of subsection 3258(b) of title 13 related to sexual exploitation of a minor
- xiv. a violation of subdivision 4058(b)(1) of title 13 related to violation of an extreme risk protection order
- xv. an offense committed in a motor vehicle as defined in 23 V.S.A. § 4 by a person who is the holder of a commercial driver's license or commercial driver's permit pursuant to 23 V.S.A. chapter 39
- xvi. any offense that would require registration as a sex offender pursuant to chapter 167, subchapter 3 of title 13

B. The following felony offenses qualify for sealing:

- i. a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling unless the person was 25 years of age or younger at the time of the offense and did not carry a dangerous or deadly weapon during the commission of the offense
- ii. designated felony property offenses as defined in 13 V.S.A. § 7601
- iii. offenses relating to possessing, cultivating, selling, dispensing, or transporting regulated drugs, including violations of 18 V.S.A. § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a), 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or 4235a(a) and (b)
- iv. any offense for which a person has been granted an unconditional pardon from the Governor

3. Petition for Expungement

A person may file a petition to expunge the record of a criminal conviction if the petitioner was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense (13 V.S.A. § 7602). Please be advised: If you have a pending criminal case, the court cannot act on a petition to expunge until after the pending charge is resolved.

The court shall grant a petition to expunge if the following conditions are met:

- i. The offense to be expunged is no longer prohibited by law
- ii. Petitioner has completed any sentence or supervision for the offense
- iii. Any restitution and surcharges ordered by the court have been paid in full

Frequently Asked Questions

1. What is the effect of sealing?

The court shall bar viewing of the sealed offense in any accessible database that it maintains. Until all charges on a case have been sealed, the case file shall remain publicly accessible. When all charges on the case have been sealed, the case file shall become exempt from public access.

When a sealing order is issued by the court, any person or entity that possess criminal history records and has been provided notice of the order shall:

- Bar viewing of the sealed offense in any accessible database that it maintains and remove information pertaining to the sealed records from any publicly accessible database that the person or entity maintains
- Clearly label the criminal history record as “SEALED”

2. What is the effect of expungement?

Expungement is similar to sealing. The court shall remove an expunged offense from any accessible database. Until all charges on the case have been expunged, the case file shall remain publicly accessible. When all the charges on the case have been expunged, the case file shall be destroyed (if on paper) or removed from any accessible database.

3. What is the process for filing a petition to seal or expunge?

1. You may want to review your file before beginning. If so, you can submit a request to receive copies or view the file at the court by contacting your local courthouse.
2. Any restitution and surcharges ordered by the court must be paid in full so you may want to resolve any unpaid restitution or surcharges prior to filing your petition.
3. When you are ready to file a petition to seal or expunge, you can obtain a copy of a petition from the courthouse or on the Vermont Judiciary website. There are no fees to file a petition to seal or expunge except for a \$90 filing fee to seal convictions of violations of 23 V.S.A. Sec. 1201(a). If you are unable to pay this fee, you may complete and file an Application to Waive Filing fees.
4. Once you file your petition, the court will provide a copy to the prosecutor who brought the criminal case. If your petition is already stipulated (or agreed to) by the prosecutor then the court will skip this step.
5. The prosecutor is entitled to file a response to your petition. If the prosecutor agrees with your request for expungement, your petition may

be granted without a hearing. If the prosecutor is opposed to your request, the court will schedule the matter for a hearing. You must attend any hearings scheduled in your case. Failure to attend could result in the dismissal of your petition.

6. The law requires the prosecutor to make a reasonable effort to notify any known victim(s) of the offense which you are seeking to expunge or seal. A victim of the offense has the right to provide a statement to the prosecutor and the court.
7. If your Petition is Granted: If the petition is granted, the court will issue an order which you can use in the event you need to prove that the offense has been expunged or sealed.
8. If your Petition is Denied: If your petition is denied by the court, no further petition shall be brought for at least two (2) years, unless a shorter duration is authorized by the Court.