

Filing a Petition to Expunge or Seal a Criminal Record

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

1. Expungement or Sealing of Criminal Conviction Record

A person may file a petition to expunge or seal the record of a criminal conviction if:

- The petitioner was convicted of a qualifying crime or qualifying crimes out of the same incident or occurrence (see definition of qualifying crimes below); or
- The petitioner was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;

A. When the Petitioner has not been convicted of another crime since the conviction:

The criminal history record will be expunged by the Court if:

- At least 10 years have elapsed since the petitioner completed the terms of the sentence for the conviction, or if the petitioner completed all terms of an indeterminate sentence the which began at least 10 years before the petition is filed;
- Any restitution ordered by the Court has been paid in full; and
- The Court finds that expungement of the criminal history record serves the interest of justice.

The criminal history record will be sealed by the Court if:

- The conditions described above are met; and
- The Court finds that sealing the criminal history record better serves the interest of justice; and
- The petitioner committed the qualifying crime after reaching 19 years of age.

B. When Petitioner has been convicted of another crime arising out of a new occurrence since the Petitioner was convicted of the qualifying crime:

The criminal history will be expunged if:

- At least 20 years have elapsed since the date on which the petitioner successfully completed the terms and conditions of the sentence for the conviction;
- The petitioner has not been convicted of a felony arising out of a new incident or occurrence since the petitioner was convicted of the qualifying crime;
- If the petitioner has been convicted of a misdemeanor, at least 15 years have elapsed since the conviction;
- Any restitution ordered by the Court has been paid
- The Court finds that, even with a new misdemeanor conviction, expungement of the criminal history record of the qualifying crime serves the interest of justice.

The criminal history will be sealed if:

- All of the above conditions are met and the Court finds that:
- Sealing of the criminal history record better serves the interests of justice than expungement; and
- The person committed the qualifying crime after 19 years of age

C. When Petitioner committed the qualifying crime prior to reaching the age of 25:

The criminal history will be expunged if:

- At least five years have elapsed since the date on which the petitioner successfully completed the terms and conditions of the sentence for the conviction, or if the petitioner has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously;
- The petitioner has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime; and
- The petitioner successfully completed a term of regular employment or public service, independent of any service ordered as part of the petitioner's sentence for the conviction and as approved by the Community Justice Network of Vermont. These may include community service without compensation, reparation of harm to the victim, education regarding ways not to offend, at least one year of service in the U.S. Armed Forces, at least one year of service in a service program, such as AmeriCorps, or one year of regular employment.
- The petitioner has paid all restitution ordered by the Court; and
- The Court finds that expungement of the criminal history record serves the interests of justice.

D. If the petition seeks expungement or sealing of a record when there was no conviction:

A person who was cited or arrested for a qualifying crime or qualifying crimes out of the same incident or occurrence may file a petition for expungement of the criminal history record if:

- No criminal charge is filed by State and the statute of limitations has expired; or
- The Court does not find probable cause or dismisses the charge at the time of arraignment and the statute of limitations has expired; or
- The charge is dismissed before trial without prejudice and the statute of limitations has expired or the charge is dismissed with prejudice (meaning it cannot be refiled at a later time); or
- The State and the petitioner agree that the Court may grant the petition to expunge; and
- The Court finds that expungement of the criminal history record serves the interest of justice.

The record will be sealed if:

- The Court finds that sealing the criminal history record better serves the interest of justice than expungement; and
- The person committed the qualifying crime after reaching 19 years of age.

E. If the petition is for expungement of a criminal offense for which the underlying conduct is no longer prohibited by law or designated a criminal offense, the Court will expunge the record if:

- At least one year has passed since the completion of any sentence or supervision for the offense, whichever is later;
- All court-ordered restitution has been paid;
- The Court finds that expungement of the criminal history record serves the interests of justice.

F. If the petition is for expungement of a conviction for possession of a regulated drug in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

- The petitioner must establish that the conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

2. Crimes that qualify for expungement or sealing:

- All misdemeanor offense except:

Stalking

Domestic Assault

Reckless Endangerment

Violation of an Abuse Prevention Order

Abuse, Unlawful Restraint, Neglect, Sexual Abuse or Financial Exploitation of a Vulnerable Adult

A Predicate Offense

An Attempt to Commit any of these listed misdemeanors

- The following felonies qualify for expungement or sealing:

Unlawful Mischief in an amount exceeding \$1,000

Grand Larceny

Burglary (except for Burglary Into an Occupied Dwelling)