

**Summary of Expungement Statutes**  
*House Judiciary Committee*  
*January 26 2017*

What is the effect of an expungement?

When a person's criminal record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court issues the person a certificate stating that the person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The court provides notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

The person is not required to answer questions about his or her expunged record on an application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing.

A file with limited information is kept, but the record associated with the case is destroyed. Upon receiving an inquiry from any person regarding an expunged record, the court or other entity must respond that "NO RECORD EXISTS."

The effect of sealing is substantially the same, but the record is not destroyed.

Qualifying Crimes:

1. Misdemeanor offenses that are **not**:

- listed crimes
- prostitution-related crimes
- sexual exploitation of children crimes
- violations of an order of protection
- a predicate offense (DUI, domestic assault, stalking; "predicate offense" specifically does not include misdemeanor possession of marijuana or disorderly conduct)

2. Three felonies:

- unlawful mischief
- grand larceny
- burglary, as long as it was not into an occupied dwelling

Process for seeking expungement:

A person can file a petition in the Criminal Division requesting expungement or sealing of the criminal history record related to a conviction if:

- the person was convicted of a qualifying crime
- the person was convicted of an offense that is no longer a crime or prohibited conduct

The court shall grant an expungement petition if the petitioner and the State's Attorney or AG stipulate to granting the petition, or if:

1. At least 20 years have elapsed since the person successfully completed the terms and conditions of the sentence for the conviction and:
  - The person has not been convicted of a new **felony** since the qualifying crime.
  - The person has not been convicted of a misdemeanor during the past 15 years.
  - Any restitution ordered by the Court has been paid in full.
  - After considering the particular nature of any subsequent offense, the Court finds that expungement serves the interest of justice.

Or, if all the above conditions are met, and the court finds that sealing better serves the interest of justice, and the person was 19 or older when he or she committed the qualifying offense, then the court will seal the record.

2. At least 10 years have elapsed since the person successfully completed the terms and conditions of the sentence for the conviction and:
  - The person has not been convicted of a new crime since the qualifying crime,
  - 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.

Or, if all the above conditions are met, and the court finds that sealing better serves the interest of justice, and the person was 19 or older when he or she committed the qualifying offense, then the court will seal the record.

3. At least 5 years have elapsed and:
  - The person was 24 or younger when he or she committed the crime
  - No new crime
  - Restitution paid
  - Court finds the interest of justice would be served
  - The person successfully completed a term of regular employment or public service as approved by the Community Justice Network of VT, such as:
    - community service hours without compensation, reparation of harm to the victim, education regarding ways not to reoffend, or
    - at least one year of US Armed Forces service, or service in AmeriCorps or similar, or
    - one year regular employment
4. At least one year has elapsed and:
  - The underlying conduct is no longer prohibited by law
  - Restitution paid
  - Court finds expungement serves the interest of justice

What if the petition is denied?

If a petition for expungement is denied by the court, the court won't consider another petition from that person for 5 years.

Victim's rights:

At the time a petition is filed, the AG or SA shall give notice of the petition to any known victim of the offense. The victim shall have the right to offer a statement to the court or a statement prior to any stipulation.