When Criminal Documents are Sealed or Expunged *(Updated 6/5/2020)*

Confidential Records : *Confidential records are not subject to inspection by the public, but can be viewed by staff. In response to a public inquiry regarding a confidential document, staff should reply that "there is no record publicly available." For a full list of confidential records, see Rule 6 of Rules for Public Access to Court Records.*

Sealed Records : *When all counts in a case have been sealed, the public and court staff no longer have permission to view the case file. However, in a case where some charges are sealed and others are not sealed or expunged, the entire case file remains publicly accessible. Staff should not redact case files due to sealed counts. In response to any inquiry regarding a sealed record, staff shall respond that "NO CRIMINAL RECORD EXISTS." A confidential special index of sealed cases shall be maintained together with the sealing orders. Only the Chief Superior Judge can permit access to this index, except for requests from law enforcement agencies who are seeking information regarding 23 VSA 1201 convictions. For the full statute, see 13 VSA §7607 Effect of sealing.*

Expunged Records : *When all counts in a case have been expunged, the case file is destroyed. However, in a case where some charges are expunged and others are not expunged or sealed, the entire case file remains publicly accessible. Staff should not redact case files due to expunged counts regardless of when the expungements occured. In response to any inquiry regarding an expunged record, staff shall respond that "NO CRIMINAL RECORD EXISTS." A confidential special index of expunged cases shall be maintained together with the expungement orders. Only the Chief Superior Judge can permit access to this index.*

** A case may only be expunged if all relevant fees, fines, surcharges and restitution have been paid. **
**There is no fee to file a petition to expunge or seal, except for motions to seal 23 VSA 1201 convictions which will be allowed starting Oct. 1, 2019. **

	No Conviction Occurred On or After July 1, 2019				
	What to do with Criminal record when...	*Action(s)*	*Is Notice Required?*	*What Order Issued?*	*Statutory or Rule Reference*
1	• Probable cause (PC) is not found; **or** • Probable cause (PC) is found at first, but a later motion to review PC finds there is no PC	1) Record is **confidential**, but is not immediately sealed. 2) Court shall issue **order to seal** record **45 days after** final disposition of the case. 3) Court shall issue an **order to expunge** the sealed record **after eight years.**	No	"crosenc"	• 13 V.S.A. §7603(a) and (f) (2019) • Vt. Pub. Acc. Ct. Rec. Rule 6(b)
2	• Charge is dismissed **without prejudice**	1) Court shall issue **order to seal** record **45 days after** final disposition of the case. 2) Court shall issue an **order to expunge** the sealed record **after eight years.**	No	"crosenc"	• 13 V.S.A. §7603(a) and (f) (2019)
3	• Defendant is acquitted of charges; **or** • Charge is dismissed **with prejudice**	1) Court shall issue an **order to expunge** record **45 days after** after final disposition of the case.	No	"crosenc"	• 13 V.S.A. §7603(e) (2019) • 13 V.S.A. §7403
	No Conviction Occured Between July 1, 2018 and July 1, 2019				
	What to do with Criminal record when...	*Action(s)*	*Is Notice Required?*	*What Order Issued?*	*Statutory or Rule Reference*
4	• Probable cause (PC) is not found; **or** • Probable cause (PC) is found at first, but a later motion to review PC finds there is no PC	1) Record is **confidential**, but is not immediately sealed. 2) Court shall issue **order to seal** record **12 months after** no PC found. 3) Court shall issue an **order to expunge** the sealed record **after the statute of limitations has expired.** *ACTION 3 CANNOT BE DONE AT THIS TIME.*	No	"crosenpr"	• 13 V.S.A. §7603(a) and (f) (2018) • Vt. Pub. Acc. Ct. Rec. Rule 6(b)
5	• Charge is dismissed **without prejudice**	1) Court shall issue **order to seal** record **12 months after** dismissal. 2) Court shall issue an **order to expunge** the sealed record **after the statute of limitations has expired.** *ACTION 2 CANNOT BE DONE AT THIS TIME.*	No	"crosenpr"	• 13 V.S.A. §7603(a) and (f) (2018)
6	• Defendant is acquitted of charges; **or** • Charge is dismissed **with prejudice**	1) Court shall issue an **order to expunge** **after 7 days but no more than 45 days after** acquital or dismissal with prejudice.	No	"crosenpr"	• 13 V.S.A. §7603(e) (2018) • 13 V.S.A. §7403
	No Conviction Occured Before July 1, 2018				
	What to do with Criminal record when...	*Action(s)*	*Is Notice Required?*	*What Order Issued?*	*Statutory or Rule Reference*
7	• Charge was dismissed for no conviction and sealed pursuant to a petition **prior to July 1, 2018**	1) Court identifies the sealed cases 2) Court shall provide a **bulk notice of intent to expunge** to State's Attorney **30 days prior to expungement** 3) If no party objects, the court shall issue **order to expunge** in **30 days.** *THIS ENTIRE WORKFLOW WILL BEGIN in OCTOBER 2019*	Yes. Notice to SA, 30 days prior to expunge-ment	To be created	• 13 V.S.A. §7603(h)
8	• No conviction occured **prior to July 1, 2018**	1) Defendant may file a **petition to seal or expunge** criminal record at any time 2) Court processes petition per the usual course	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"croe" or "cros"	• 13 V.S.A. §7603(g)

	Adult Diversion				
	What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
9	• Prosecuting attorney notifies court in writing of his or her intention to refer a person to diversion	1) Record shall become **confidential**	No	No order issued	3 V.S.A. §164(e)
10	• Adult diversion successfully completed **on or after July 1, 2018**	1) Court identifes cases eligible for expungement using **Diversion Completed report Rrcr16** 2) Court shall issue a **notice of intent to expunge** to all parties **within 30 days after** the two-year anniversary of successful completion. 3) If no party objects, the court shall issue an **order to expunge** in **30 days.**	Yes. To all parties. "crniead"	"croead"	3 V.S.A. §164(g)
11	• Adult diversion successfully completed **between July 1, 2002 and June 30, 2018**	1) Court identifies the adult diversion cases that were sealed **between July 1, 2002 and June 30, 2018.** This list has been emailed to the COMs in each unit. 2) Court shall provide a **bulk notice of intent to expunge** with list of cases to be expunged to State's Attorney **30 days prior to expungement** 3) If no party objects, the court shall issue **order to expunge** in **30 days.**	Yes. To SA only. Use form "200-00017 Adult Diversion Cases Sealed Priot to July 1, 2018". It is located on JustUsNet.	"croeadsp"	3 V.S.A. §164(g)
12	• Case is referred to **Tamarack** program	1) Record shall become **confidential** when referred to Tamarack 2) However, if there are **conditions of release,** the case is **no longer confidentia**l while the conditions are in place. Once deft completes Tamarack and State dismisses charges the case becomes **confidential** again. 3) Court shall issue a notice of intent to expunge to all parties within 30 days after the two-year anniversary of successful completion. 4) If no party objects, the court shall issue an order to expunge in 30 days.	Yes. To all parties. "crniead"	"croead"	3 V.S.A. §164(e)

Deferred Sentences				
What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
13 • Defendant has fulfilled the terms of probation and of the deferred sentence agreement and does not owe restitution	1) Court shall issue an **order to expunge** when the deferred sentence expires	No	"croed"	13 V.S.A. §7041(e)

	What to do with Criminal record when...	Action(s)	Is Notice Required?	What Order Issued?	Statutory or Rule Reference
	18-21 Year Old Offenders				
14	• Defendant was 18-21 years old at the time of committing a qualifying crime and successfully completed the terms and conditions of the sentence **on or after July 1, 2018** and qualifying crime was not filed with a nonqualifying crime	1) Court shall issue an **order to expunge** **within 30 days after** the date on which the individual successfully completed the terms and conditions of sentence ***THIS ENTIRE WORKFLOW CANNOT BE DONE AT THIS TIME. IF YOU ARE TRYING TO EXPUNGE A YOUTHFUL OFFENDER CASE, SEE "TRANSFERS TO JUVENILE COURT/YOUTHFUL OFFENDER" BELOW.***	No	"croe18_21"	13 V.S.A. §7609(a) and (b)
15	• Defendant was 18-21 years old at the time of committing a qualifying crime and successfully completed the terms and conditions of the sentence **prior to July 1, 2018**	1) The individual may file a petition to expunge the criminal history record 2) Court processes the petition per the normal course	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"croe18_21"	13 V.S.A. §7609(c)

	Minors in Criminal Court				
	What to do with Criminal record when...	*Action(s)*	*Is Notice Required?*	*What Order Issued?*	*Statutory or Rule Reference*
16	• Defendant was charged with a criminal offense **after** July 1, 2006 and prior to attaining the age of majority and the charge was dismissed	1) The case shall be immediately **sealed**	No	No order issued	33 V.S.A. §5119(h)
17	• Defendant was charged with a criminal offense **prior** to July 1, 2006, prior to attaining the age of majority, and the charge was dismissed	1) Defendant may file a petition to seal or expunge the criminal record at any time 2) Court will process the petition in the normal course	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"crosm"	33 V.S.A. §5119(h)

	What to do with Criminal record when...	Action(s)	Is Notice Required?	What Order Issued?	Statutory or Rule Reference
18	• Defendant files motion to proceed as a youthful offender in juvenile court	1) The criminal case file remains public	No	No order issued	33 V.S.A. § 5281
19	• Defendant successfully completes youthful offender program	1) Family court will provide a copy of the Youthful Offender Discharge Order to Criminal Division 2) Criminal division shall dismiss case 3) Criminal division shall issue an **order to expunge .**	No	"cryodo"	33 V.S.A. § 5287(c) and (d)

Transfers to Juvenile Court/Youthful Offender

	Petitions			
	What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
20	• Defendant files petition to seal or expunge criminal records (note: there is no fee for petitions to seal or expunge except for DUI1).	• If defendant and State's Attorney/Attorney General stipulate to the granting of the petition, the court will grant order to expunge or seal without a hearing. -or- • If State's Attorney/Attorney General objects then a hearing will be scheduled and court will make a determination as to whether to grant petition to expunge or seal	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"croe" or "cros"	13 V.S.A. § 7602

	Governor's Pardons			
	What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
21	• Defendant has received a governor's pardon	• Defendant must file petition. See section regarding **Petitions**.	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"croe" or "cros"	13 VSA § 7601(4)(P)

	Operating Under the Influence of Alcohol or other Substance			
	What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
22	• Defendant wants to clear record of conviction for violation of 23 VSA 1201(a) [*effective October 1, 2019*]	• Defendant must file a petition to **seal** the criminal record along with the $90 fee or filing fee waiver. (Data entry reminder: Use motion type: "scrimhis" and account code "crmfee")	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"cros"	•13 VSA § 7602(a) and (g) •32 VSA § 1431(e)

	Criminal Charges Never Filed or Case Predates VTADS			
	What to do with Criminal record when...	**Action(s)**	**Is Notice Required?**	**What Order Issued?**	**Statutory or Rule Reference**
23	• Defendant was arrested but the SA never filed charges; or • Defendant's criminal case predates VTADS (pre-1990s) so there is no record in the automated case management system	• Defendant must file petition. Because these cases are not in VTADS, court staff must assign the petition a docket number as a Civil Miscellaneous case.	Yes. Though deft is responsible for notice, staff should give copy of petition to SA.	"croe" or "cros"	