

§ 19.2-392.13. Disposition of records when an offense is sealed; permitted uses of sealed records

A. Upon electronic notification that a court order for sealing has been entered pursuant to § 19.2-392.7, 19.2-392.10, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, the Department of State Police shall not disseminate any criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, that was ordered to be sealed, except for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Upon receipt of such electronic notification, the Department of State Police shall electronically notify those agencies and individuals known to maintain or to have obtained such a record that such record has been ordered to be sealed and may only be disseminated for purposes set forth in this section and pursuant to rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134. Any records maintained electronically that are transformed or transferred by whatever means to an offline system or to a confidential and secure area inaccessible from normal use within the system in which the record is maintained shall be considered sealed, provided that such records are accessible only to the manager of the records or their designee.

B. Upon entry of a court order for sealing pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, or 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, the Executive Secretary of the Supreme Court and any circuit court clerk who maintains a case management system that interfaces with the Department of State Police under subsection B1 of § 17.1-502 shall ensure that the court record of such arrest, charge, or conviction is not available for public online viewing as directed by subsections B and C of § 17.1-293.1. Additionally, upon entry of such an order for sealing, the clerk of the court shall not disseminate any court record of such arrest, charge, or conviction, except as provided in subsections D and E.

C. Records relating to an arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, shall not be open for public inspection or otherwise disclosed, provided that such records may be disseminated and used for the following purposes: (i) to make the determination as provided in § 18.2-308.2:2 or through the National Instant Criminal Background Check System of eligibility to possess or purchase a firearm; (ii) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System; (iii) to the Virginia Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (iv) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision

thereof; (v) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5;(vi) to any full-time or part-time employee of the Department of Forensic Science for the purpose of screening any person for full-time or part-time employment with the Department of Forensic Science; (vii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5;(viii) to any full-time or part-time employee of the Department of Motor Vehicles, any employer as defined in § 46.2-341.4, or any medical examiner as defined in 49 C.F.R. § 390.5 for the purpose of complying with the regulations of the Federal Motor Carrier Safety Administration; (ix) to any employer or prospective employer or its designee where federal law requires the employer to inquire about prior criminal charges or convictions; (x) to any employer or prospective employer or its designee where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed in the interest of the national security of the United States under any security program in effect pursuant to or administered under any contract with, or statute or regulation of, the United States or any Executive Order of the President; (xi) to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for purposes of collecting such court costs, fines, or restitution; (xii) to administer and utilize the DNA Analysis and Data Bank set forth in Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18; (xiii) to publish decisions of the Supreme Court, Court of Appeals, or any circuit court; (xiv) to any full-time or part-time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House and Senate Committees for Courts of Justice for the purpose of screening any person for full-time or part-time employment as a clerk, magistrate, or judge with a court or the Office of the Executive Secretary; (xv) to any employer or prospective employer or its designee where this Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions; (xvi) to any employer or prospective employer or its designee that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to § 9.1-128 and procedures adopted pursuant to § 9.1-134;(xvii) to any business screening service for purposes of complying with § 19.2-392.16;(xviii) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused; (xix) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding; (xx) to any party for use in a protective order hearing as authorized by law; (xxi) to the Department of Social Services or any local department of social services for purposes of performing any statutory duties as required under Title 63.2; (xxii) to any party in a proceeding relating to the care and custody of a child for use as authorized by law in such proceeding; (xxiii) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to the provisions of § 19.2-392.12, whether the court or parties failed to strictly comply with sealing procedures, or whether an order for sealing was entered contrary to law; (xxiv) to determine a person's eligibility to be empaneled as a juror; (xxv) to the Auditor of Public Accounts for audit purposes; (xxvi) to the Department of Behavioral Health and Developmental Services and any entity defined under § 37.2-100 for purposes of providing any services or functions as defined in such section; (xxvii) to the attorney for the Commonwealth, the defendant or his counsel, any magistrate, any local community-based probation services agency or pretrial services agency, the

Department of State Police, any police department, any sheriff's office, any campus police department, the Department of Corrections, any court, and the Virginia Criminal Sentencing Commission for the purposes set forth in subsection H of § 19.2-392.5; and (xxviii) to the person arrested, charged, or convicted of the offense that was sealed.

C1. In addition to the purposes set forth in subsection C, a sealed record may be disseminated without a court order within or between any department, division, board, bureau, commission, branch, authority or other agency created by the Commonwealth, or to which the Commission is a party or any political subdivision thereof, or with any federal agency, for the purpose of administering any duties or functions required by state or federal law. Nothing in this subsection shall authorize a business screening service to allow dissemination of a sealed record due to its continued existence in any such record.

D. Upon request from any person to access a paper or a digital image of a court record, the clerk of the court shall determine whether such record is open to public access and inspection. If the clerk of the court determines that the court record has been sealed, such record shall not be provided to the requestor without an order from the court that entered the order to seal the court record or from the court in which the final disposition was entered if the offense was sealed without the entry of a court order. Any order from a court that allows access to a paper or a digital image of a court record that has been sealed shall only be issued for one or more of the purposes set forth in subsection C. Such order to access a paper or a digital image of a court record that has been sealed shall allow the requestor to photocopy such court record. No fee shall be charged to any person filing a motion to access a paper or a digital image of a court record that has been sealed if the person filing such motion is the same person who was arrested, charged, or convicted of the offense that was sealed.

E. No access shall be provided to electronic records in an appellate court, circuit court, or district court case management system or other system containing electronic case information maintained by the Executive Secretary of the Supreme Court or in a case management system maintained by a clerk of the circuit court for any arrest, charge, or conviction that was ordered to be sealed pursuant to § 19.2-392.7, 19.2-392.8, 19.2-392.11, 19.2-392.12, 19.2-392.12:1, or upon the sealing of an offense without a court order pursuant to § 19.2-392.6:1 or 19.2-392.17, except to (i) the Virginia Criminal Sentencing Commission, the Virginia State Crime Commission, and the Joint Legislative Audit and Review Commission for research purposes; (ii) the Auditor of Public Accounts for audit purposes; (iii) any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of § 19.2-349 for the purposes of collection of such court costs, fines, or restitution; and (iv) any person authorized to submit a request for payment to the Office of the Executive Secretary of the Supreme Court for services provided in a criminal case. Electronic records may be disseminated as authorized in this subsection without a court order.

F. If a pleading or case document in a court record that was sealed is included among other court records that have not been ordered to be sealed, the clerk of the court shall not be required to prohibit dissemination of that record. If an appellate court record contains court records that have been sealed, with or without a court order, and court records that have not been sealed, the clerk of the Supreme Court or Court of Appeals shall not be required to prohibit dissemination of such appellate record. Any circuit court shall not be required to prohibit dissemination of any published or unpublished opinion relating to an arrest, charge, or conviction that was ordered to be sealed. The Supreme Court and Court of Appeals shall not be required to prohibit

dissemination of any (i) published or unpublished opinion, order, or summary of a case; (ii) court records for matters in which the Supreme Court or Court of Appeals has original jurisdiction; or (iii) appellate court record of a traffic infraction under Title 46.2 that is not punishable as a criminal offense relating to an arrest, charge, or conviction that was sealed. A clerk of the court shall not be required to redact information pertaining to a court record that has been sealed in any reports or electronic transmissions of case information that are required by statute or prepared and distributed to a state or local government entity in the normal course of business. Nothing in this subsection shall authorize a business screening service to allow dissemination of a sealed record due to its continued existence in any appellate record.

G. The clerk of any circuit court shall not be required to redact any sealed record contained in (i) an order book or order book index; (ii) a land record, as defined in subsection B of § 17.1-292; or (iii) on microfilm or microfiche. The clerk of any circuit court shall not be required to redact or seal any paper record for an offense that has been sealed pursuant to § 19.2-392.6:1 or 19.2-392.17. The clerk of any circuit court who physically removes the paper record of the primary case file for any other charge or conviction that has been sealed and maintains that file in a physically secure location that is not accessible to the public shall be in compliance with the requirement to seal the paper record. For the purposes of this subsection, the primary case file includes the indictment or warrant and any other papers relating to any proceedings on such indictment or warrant. Nothing in this subsection shall authorize a business screening service to allow dissemination of a sealed record due to its continued existence in any such record.

H. The Department of Motor Vehicles shall not seal any conviction or any charge that was deferred and dismissed after a finding of facts sufficient to justify a finding of guilt (i) in violation of federal regulatory record retention requirements or (ii) in violation of federal program requirements if the Department of Motor Vehicles is required to suspend a person's driving privileges as a result of a conviction or deferral and dismissal ordered to be sealed. Upon receipt of an electronic notification of an order directing that an offense be sealed, the Department of Motor Vehicles shall seal all records if the federal regulatory record retention period has run and all federal program requirements associated with a suspension have been satisfied. However, if the Department of Motor Vehicles cannot seal an offense pursuant to this subsection at the time it is ordered, the Department of Motor Vehicles shall (a) notify the Department of State Police of the reason the record cannot be sealed and cite the authority prohibiting sealing at the time it is ordered; (b) notify the Department of State Police of the date, if known at the time when the sealing is ordered, on which such record can be sealed; (c) seal such record on that date; and (d) notify the Department of State Police when such record has been sealed within the Department of Motor Vehicles' records.

I. The Library of Virginia shall not be required to seal any court records in its possession, provided that such records are not accessible or disseminated to the public.

J. No arrest, charge, or conviction that has been sealed may be used to impeach the credibility of a testifying witness at any hearing or trial unless (i) its probative value, supported by specific facts and circumstances, substantially outweighs its prejudicial effect and (ii) the proponent gives an adverse party reasonable written notice of the intent to use it so that the party has a fair opportunity to contest its use.

K. The provisions of this section shall not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance

of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.

2021, Sp. Sess. I, cc. [524](#), [542](#);2023, cc. [554](#), [555](#);2025, cc. [634](#), [671](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.