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10 Things You Need to Know About Criminal Record Expungements in Virginia

1. In Virginia, a conviction for any misdemeanor or felony criminal offense, such as assault, drug possession, DWI/DUI, reckless driving, etc., results in a **record for life**. However, under certain circumstances, these records can be sealed through a legal process called a criminal record expungement.
2. A criminal record [expungement](#) is an action used to delete all police and court records, including electronic records, for a specific criminal case. While an expungement removes these records from public access, they are **not actually destroyed** and can be accessed by court order.
3. An expungement can only be obtained if you are found **not guilty** by the court (dismissal); the charges are **withdrawn** (nolle prosequi) by the Court on a motion by the Commonwealth; an individual's name is used in error; or an individual obtained an absolute pardon from a Virginia Governor.
4. Where "facts are found sufficient for a finding of guilt" and the charge is ultimately dismissed, there is no conviction record, but there **will be a record** of being charged and that the charge was dismissed. This type of outcome is common for a first-time marijuana, domestic assault, under-aged possession of alcohol, and trespass.
5. "Facts are found sufficient for a finding of guilt" means that the judge believes there is enough evidence to convict, but is giving you a chance to **avoid a conviction**. However, if any of these charges are amended to that of an unrelated charge, and you are found guilty of that **non-related charge**, the original charge would be eligible for an expungement.
6. Even if a charge qualifies for an expungement, it is not an automatic process. Before a court will approve a request for an expungement, it is necessary to **demonstrate that the record will cause you economic harm** because public access to revealing this charge could result in a loss of employment through a background check.
7. There are three types of pardons that can be issued by a Virginia Governor: A **Simple Pardon** is given for [employment and education advancement](#). To qualify, you must demonstrate good citizenship and letters of recommendation from officials involved in the case and the Virginia Parole Board. This type of pardon does not expunge a criminal record.
8. The two other types of pardons are **Conditional Pardon**, which are given to those currently incarcerated [and seeking early release](#), or in extraordinary circumstances, an **Absolute Pardon** can be given to those who are innocent and unjustly convicted. Only [Absolute Pardons](#) makes you eligible to petition the court to have the conviction expunged.
9. When you are convicted of a felony in Virginia, you lose your right to vote, run for and hold public office, serve on juries and serve as a notary public. Those who have been convicted of a violent crime, a crime against a minor, or an election law offense must submit an [application to request](#) their **rights be restored**.
10. If you have been convicted of a [non-violent felony](#) in a Virginia or U.S. District Court, you are **eligible to request a restoration of your rights** if you have: completed the prison sentence and completed probation/parole; paid all court costs, fines (and restitution to the victims); satisfied all court-ordered conditions; and no pending felony charges. If you have been convicted of a violent or more serious felony in a Virginia or U.S. District Court, depending on the [waiting period](#), you may also be eligible to request a restoration of your rights.

This Guide does not constitute legal advice and is meant for information purposes only. Information provided is current as of March 2015 and is subject to legislative change at any time. The author of this Guide is not responsible for providing updates when legislative changes occur.