

Offenses Not Eligible for Sealing under Va. Code § 19.2-392.12

Each Code section below is hyperlinked directly to its specific page on the Virginia Legislative Information System (LIS).

1. The following offenses are ineligible for sealing:

§ 4.1-309.1	Possessing or consuming an alcoholic beverage while operating a school bus
§ 5.1-13	Operation of aircraft while under influence; reckless operation
§ 18.2-36	How involuntary manslaughter
§ 18.2-36.1	Certain conduct punishable as involuntary manslaughter
§ 18.2-36.2	Involuntary manslaughter; operating a watercraft while under the influence
§ 18.2-47	Abduction and kidnapping defined; forced labor
§ 18.2-49.1(A)	Violation of court order regarding custody and visitation
§ 18.2-51.5	Maiming, etc., of another resulting from operating a watercraft while intoxicated
§ 18.2-57(C)	Assault and battery of law enforcement
§ 18.2-57.2	Assault and battery against a family or household member
§ 18.2-57.3	First-offense domestic A&B deferred disposition program
§ 18.2-59.1	Sexual extortion
§ 18.2-60	Threats of death or bodily injury; certain school/health-care threats
§ 18.2-60.3	Stalking

§ 18.2-60.5	Unauthorized use of electronic tracking device
§ 18.2-130	Peeping or spying into dwelling or enclosure
§ 18.2-130.1	Peeping/spying into dwelling by electronic device or UAS
§ 18.2-144	Maiming, killing or poisoning animals, fowl, etc.
§ 18.2-144.1	Prohibition against killing or injuring police animals
§ 18.2-154	Shooting at or throwing missiles at train, car, vessel, etc.
§ 18.2-178.1	Financial exploitation of vulnerable adults
§ 18.2-266	Driving motor vehicle, engine, etc., while intoxicated, etc.
§ 18.2-266.1	Persons under age 21 driving after illegally consuming alcohol
§ 18.2-268.3	Refusal of breathe tests
§ 18.2-282.1	Brandishing a machete or other bladed weapon with intent to intimidate
§ 18.2-324.2	Use of unmanned aircraft system for certain purposes
§ Former 18.2-346(B)	Solicitation of prostitution
§ 18.2-405	What constitutes a riot
§ 18.2-406	What constitutes an unlawful assembly
§ 18.2-472.1	Providing false information or failing to provide registration information
§ 19.2-62	Interception, disclosure, etc., of wire, electronic or oral communications

§ 29.1-738	Operating boat or manipulating water skis, etc., in reckless manner or while intoxicated, etc.
§ 29.1-738.02	Persons under 21 operating watercraft after illegally consuming alcohol
§ 29.1-738.2	Consent to blood or breath test
§ 37.2-912	Conditional release; criteria; conditions; reports
§ 40.1-100.2	Employment involving sexually explicit visual material prohibited
§ 40.1-103	Cruelty and injuries to children; abandoned infant
§ 46.2-341.24	Driving a commercial motor vehicle while intoxicated, etc.
§ 46.2-341.26:3	Refusal of tests; out-of-service orders; disqualification

2. Offenses Requiring Sex Offender Registry Registration (§ 9.1-902)

The following offenses are the most common offenses under Va. Code § 9.1-902 and are not eligible for record sealing. For a comprehensive list of all charges requiring sex offender registry registration and not eligible for sealing, consult Va. Code § 9.1-902.

§ 18.2-61 – Rape

§ 18.2-63 – Carnal knowledge of child 13–15 (no force)

§ 18.2-64.1 – Carnal knowledge of certain minors

§ 18.2-67.1 – Aggravated sexual battery

§ 18.2-67.2 – Sexual battery

§ 18.2-67.3 – Object sexual penetration

§ 18.2-370 – Taking indecent liberties with children

§ 18.2-370.1 – Indecent liberties by custodian/supervisor

§ 18.2-374.1 – Production of child pornography

§ 18.2-374.1:1 – Possession/distribution of child pornography

See registry statute: § 9.1-902

3. Violent Felony Offenses under § 17.1-805(C)

The following offenses are the most common violent offenses under Va. Code § 17.1-805(C) and are not eligible for record sealing. For a comprehensive list of all violent offense and not eligible for sealing, consult Va. Code § 17.1-805(C).

§ 18.2-31 — Willful, deliberate, premeditated murder.

§ 18.2-32 — Second degree murder / felony homicide.

§ 18.2-33 — Felony homicide — homicide during perpetration of certain felonies.

§ 18.2-35 — Voluntary manslaughter — intentional killing in the heat of passion or under provocation.

§ 18.2-40 — Malicious wounding— injuring another maliciously (intent to maim, disfigure, disable, etc.).

§ 18.2-41 — Mob-related violent offenses — assault or violence committed by a mob.

§ 18.2-47 — Abduction / kidnapping — unlawfully taking or confining someone.

§ 18.2-48 — Abduction of a minor — kidnapping a child under statutory protections.

§ 18.2-51 — Unlawful wounding — shooting, stabbing, cutting, or wounding with intent to maim, disfigure, disable, or kill.

§ 18.2-51.2 — Aggravated malicious wounding — wounding involving permanent impairment or aggravated circumstances.

§ 18.2-57.2 — Repeated family/household assault — third or subsequent assault on a family/household member (Felony domestic violence).

§ 18.2-58 — Robbery.

§ 18.2-58.1 — Carjacking. .

§ 18.2-60.3 — Felony stalking — repeated stalking elevated to a felony.

§ 18.2-63 — Rape.

§ 18.2-64.1 — Forcible sodomy — non-consensual sodomy or sexual acts by force.

§ 18.2-67.1 — Aggravated sexual battery — sexually battering with aggravating circumstances.

§ 18.2-67.5 — Aggravated sexual battery / repeated sexual battery offenses.

§ 18.2-79 — Arson of public building — burning public property.

§ 18.2-80 — Arson of other buildings — burning non-dwelling structures.

§ 18.2-85 — Use, manufacture, or possession of explosives or bombs — violent weapon offense.

§ 18.2-89 — Assault with intent to maim/kill — aggravated assault intended to cause serious harm.

§ 18.2-93 — Shooting into an occupied conveyance or building — firearm discharge endangering people.

§ 18.2-308.2 — Possession or transportation of firearms by convicted felons

Full violent felony list: § 17.1-805(C)

4. Non-violent Felonies Involving Use of a Firearm

Any non-violent felony where a firearm (as defined in § 18.2-308.2:2) was used in the offense is ineligible unless firearm rights have been restored pursuant to Va Code § 18.2-308.2.

5. Protective Order Violations

Any violation of an emergency, preliminary, or permanent protective order issued pursuant to Article 4 (§ 16.1-246 et seq.) of Chapter 11 of Title 16.1 or Chapter 9.1 (§ 19.2-152.7:1 et seq.) or any family abuse protective order issued pursuant to Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1.

6. Hate Crimes

Any violation of Va. Code § 52-8.5.

7. Animal Cruelty (Article 9, Chapter 65, Title 3.2)

The following offenses are ineligible for sealing:

§ 3.2-6570	Cruelty to animals
§ 3.2-6570.1	Sale of animals after cruelty or neglect conviction
§ 3.2-6571	Animal fighting
§ 3.2-6573	Shooting birds for amusement, and renting premises for such purposes

8. Election Offenses (Title 24.2)

Any violation of Title 24.2 (§ 24.2-100 et seq.)

9. Specific Controlled Substances

The following offenses are ineligible for sealing:

§ 18.2-251.2 – Flunitrazepam (Rohypnol): possession/distribution

§ 18.2-250 – Possession of GHB

10. Not Guilty by Reason of Insanity (NGRI)

Any offense with an NGRI disposition is ineligible for sealing.

11. Conspiracy/Attempt Ineligible Offenses

Conspiracy, attempt, solicitation, principal in the second degree, accessory before/after the fact to any ineligible offense are also ineligible.

12. Conspiracy/Attempt to Commit Class 1–4 Felonies or >10-Year Felonies

Any conspiracy, attempt, or solicitation, as well as any principal in the second degree or accessory before or after the fact, is included if the underlying offense—the

completed crime—would be punishable as a Class 1, 2, 3, or 4 felony, or by more than 10 years in prison.

However, this does not apply to violations of § 18.2-95 or to any other felony larceny offense that is punished under § 18.2-95.

13. Companion Animal Ownership Prohibition

If the court prohibited ownership/possession of a companion animal as part of the offense, the matter is ineligible while the prohibition remains in effect.

14. Dangerous or Vicious Dog Offenses (Article 6, Chapter 65, Title 3.2)

Any violation of Article 6 (§ 3.2-6537 et seq.) of Chapter 65 of Title 3.2 that involved a dangerous or vicious dog in connection with the offense being considered for sealing, if the person still owns or possesses that dog.

15. Sex Crimes (Article 7, Chapter 4, Title 18.2)

The following offenses are the most common sex crimes under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and are not eligible for record sealing. For a comprehensive list of all sex crimes that not eligible for sealing, consult Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

§ 18.2-61 – Rape

§ 18.2-67.1 – Aggravated sexual battery

§ 18.2-67.2 – Sexual battery

§ 18.2-67.3 – Object sexual penetration

§ 18.2-67.4 – Carnal knowledge of child under 13

§ 18.2-67.5 – Carnal knowledge of child 13–15

§ 18.2-370 – Indecent liberties with children

§ 18.2-370.1 – Indecent liberties by custodian/supervisor

16. Prostitution & Related Offenses (Article 3, Chapter 8, Title 18.2)

Any violation of Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2, with the exception of § 18.2-346, former subsection A of § 18.2-346, and § 18.2-347:

§ 18.2-346.01 — Prostitution; solicitation; commercial exploitation of a minor.

§ 18.2-346.1 — Testing of convicted prostitutes and injection drug users for sexually transmitted infection.

§ 18.2-348 — Aiding prostitution or illicit sexual intercourse, etc.
§ 18.2-348.1 — Promoting travel for prostitution.
§ 18.2-349 — Using vehicles to promote prostitution or unlawful sexual intercourse.
§ 18.2-350 — Confinement of convicted prostitutes and persons violating §§ 18.2-347 through 18.2-349.
§ 18.2-355 — Taking, detaining, etc., person for prostitution or human trafficking.
§ 18.2-356 — Receiving money for procuring a person for prostitution.
§ 18.2-356.1 — Purchasing or selling of minors; exceptions.
§ 18.2-357 — Receiving money from earnings of a prostitute.
§ 18.2-357.1 — Commercial sex trafficking.
§ 18.2-359 — Venue for sexual assault or transport crimes when coupled with violent felonies.
§ 18.2-360 — Competency of witnesses in prosecutions under §§ 18.2-355 through 18.2-361.
§ 18.2-361 — Crimes against nature.
§ 18.2-361.01 — Sexual abuse of animals.
§ 18.2-361.1 — Victims of sex trafficking; affirmative defense.

Exception: § 18.2-346 - Prostitution is eligible to be sealed .

Exception: § 18.2-347 - Pandering/Bawdy Place is eligible to be sealed.

17. Crimes Against Nature (Article 4, Chapter 8, Title 18.2)

Any violation of Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, with the exception of §§ 18.2-365, 18.2-371.2, 18.2-371.3, and 18.2-371.4:

§ 18.2-362 — Person marrying when spouse is living.
§ 18.2-363 — Leaving Commonwealth to evade law against bigamy.
§ 18.2-364 — Exceptions to §§ 18.2-362 and 18.2-363.
§ 18.2-366 — Sexual intercourse by persons forbidden to marry; incest.
§ 18.2-368 — Placing or leaving spouse for prostitution.
§ 18.2-369 — Abuse and neglect of vulnerable adults.
§ 18.2-370 — Taking indecent liberties with children.
§ 18.2-370.01 — Indecent liberties by children.
§ 18.2-370.1 — Taking indecent liberties with child by person in custodial or supervisory relationship.
§ 18.2-370.2 — Sex offenses prohibiting proximity to children.
§ 18.2-370.3 — Sex offenses prohibiting residing in proximity to children;
§ 18.2-370.4 — Sex offenses prohibiting working on school property.
§ 18.2-370.5 — Offenses prohibiting entry onto school or other property.
§ 18.2-370.6 — Penetration of mouth of child with lascivious intent.
§ 18.2-371 — Causing or encouraging acts rendering children delinquent, abused, etc.; penalty; abandoned infant.

§ 18.2-371.1 — Abuse and neglect of children; penalties; abandoned infant.

§ 18.2-371.2:1 — Prohibiting possession of retail tobacco products and hemp products intended for smoking by persons under 21; seizure.

18. Obscenity & Related Offenses (Article 5, Chapter 8, Title 18.2)

Any violation of Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, with the exception of § 18.2-388:

§ 18.2-372 — “Obscene” defined.

§ 18.2-373 — Obscene items enumerated.

§ 18.2-374 — Production, publication, sale, possession, etc., of obscene items.

§ 18.2-374.1 — Production, publication, sale, financing, etc., of child pornography; presumption as to age.

§ 18.2-374.1:1 — Possession, reproduction, distribution, solicitation, and facilitation of child pornography.

§ 18.2-374.3 — Use of communications systems to facilitate certain offenses involving children.

§ 18.2-374.4 — Display of child pornography or grooming video or materials to a child unlawful.

§ 18.2-375 — Obscene exhibitions and performances.

§ 18.2-376 — Advertising, etc., obscene items, exhibitions or performances.

§ 18.2-376.1 — Enhanced penalties for using a computer in certain violations.

§ 18.2-377 — Placards, posters, bills, etc.

§ 18.2-378 — Coercing acceptance of obscene articles or publications.

§ 18.2-379 — Employing or permitting minor to assist in offense under article.

§ 18.2-380 — Punishment for first offense.

§ 18.2-381 — Punishment for subsequent offenses; additional penalty for owner.

§ 18.2-382 — Photographs, slides, and motion pictures.

§ 18.2-383 — Exceptions to application of article.

§ 18.2-384 — Proceeding against book alleged to be obscene.

§ 18.2-385 — Section 18.2-384 applicable to motion picture films.

§ 18.2-386 — Showing previews of certain motion pictures.

§ 18.2-386.1 — Unlawful creation of image of another.

§ 18.2-386.2 — Unlawful dissemination or sale of images of another.

§ 18.2-387 — Indecent exposure.

§ 18.2-387.1 — Obscene sexual display.

Exception: § 18.2-388 (public intoxication) is eligible to be sealed.

19. Offenses Where Victim Was a Family or Household Member

Any offense is ineligible where the victim was a family or household member as defined in Va Code § 16.1-228 – Family or household member (statutory definition).

"Family or household member" means (i) the person's spouse, whether or not such spouse resides in the same home with the person; (ii) the person's former spouse, whether or not such person resides in the same home with the person; (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents, and grandchildren, regardless of whether such persons reside in the same home with the person; (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law who reside in the same home with the person; (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time; (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person; or (vii) an individual who is a legal custodian of a juvenile.