



GUIDE FOR SHIELDING OF MARYLAND SECOND CHANCE ACT RECORDS

《马里兰州第二次机会法案》记录非公开指南 (Criminal Procedure §§ 10-301 through 10-306) (《刑事诉讼程序》第 10-301 条到第 10-306 条)

What does “shield” mean under the Maryland Second Chance Act?

《马里兰州第二次机会法案》规定的“非公开”是什么意思？

“Shield” means to render a court record and police record relating to a conviction of one of twelve specified crimes inaccessible by members of the public. This authorization does not apply to a conviction for a domestically related crime. “非公开”指公众不得查阅与具体规定的十二种犯罪中一种犯罪定罪相关的法院记录和警方记录。此项授权不适用于与家庭相关的犯罪定罪。

- 1) **Disorderly Conduct** under § 10-201(c)(2) of the Criminal Law Article;
1) 《刑法条款》第 10-201(c)(2) 条规定的**妨碍治安行为**;
- 2) **Disturbing the Peace** under § 10-201(c)(4) of the Criminal Law Article;
2) 《刑法条款》第 10-201(c)(4) 条规定的**扰乱治安行为**;
- 3) **Failure to Obey a Reasonable and Lawful Order** under § 10-201(c)(3) of the Criminal Law Article;
3) 《刑法条款》第 10-201(c)(3) 条规定的**未遵守合理合法命令**;
- 4) **Malicious Destruction of Property in the Lesser Degree** under § 6-301 of the Criminal Law Article;
4) 《刑法条款》第 6-301 条规定的**程度较轻的恶意毁坏财产**;
- 5) **Trespass on Posted Property** under § 6-402 of the Criminal Law Article;
5) 《刑法条款》第 6-402 条规定的**擅自进入有明确告示的物业**;
- 6) **Possessing or Administering a Controlled Dangerous Substance** under § 5-601 of the Criminal Law Article;
6) 《刑法条款》第 5-601 条规定的**持有或管理管制危险物质**;
- 7) **Possessing or Administering a Noncontrolled Dangerous Substance** under § 5-618(a) of the Criminal Law Article;
7) 《刑法条款》第 5-618(a) 条规定的**持有或管理非管制物质**;
- 8) **Use of or Possession with Intent to Use Drug Paraphernalia** under § 5-619(c)(1) of the Criminal Law Article;
8) 《刑法条款》第 5-619(c)(1) 条规定的**使用或意图使用而持有吸毒用具**;
- 9) **Driving without a License** under § 16-101 of the Transportation Article;
9) 《交通条例》第 16-101 条规定的**无证驾驶**;
- 10) **Driving While Privilege is Canceled, Suspended, Refused, or Revoked** under § 16-303 of the Transportation Article;
10) 《交通条例》第 16-303 条规定的**驾驶权被取消、暂停、拒绝或撤销时驾驶**;
- 11) **Driving While Uninsured** under § 17-107 of the Transportation Article; or
11) 《交通条例》第 17-107 条规定的**无保险驾驶**; 或
- 12) **A Prostitution Offense** under § 11-303 (formerly § 11-306(a)(1)) of the Criminal Law Article if the conviction is for prostitution and not assignment.
12) 《刑法条款》第 11-303 条(原第 § 11-306(a)(1))规定的**卖淫犯罪**, 条件是因卖淫(并非因约会)被定罪。

How is shielding different from expungement?

非公开与删除的区别是什么？

Shielding keeps some or all information in a case private from public inspection, under certain circumstances.

Expungement removes court and police records from public inspection.

非公开指在某些情况下为案件中的部分或所有信息保密, 不允许公众查阅。

删除指清除法院和警方记录, 避免公众查阅。

What is the cost for second chance shielding of record(s)?

申请第二次机会记录非公开的费用是多少?

There is no filing fee for filing a petition to shield records under the Maryland Second Chance Act.
根据《马里兰州第二次机会法案》的规定,提交记录非公开申请无需缴纳申请费。

Where should a person file their petition for shielding of eligible criminal records?

应当在哪里提交合格犯罪记录非公开申请?

In the circuit or District Court in which the case was concluded. A person is only eligible for one (1) shielding over the person's lifetime, and must decide to petition to shield criminal convictions in **either** the circuit or District Court **AND** in only one (1) county. For instance, if a person has more than one (1) eligible conviction in **both** circuit and District Courts in various counties, you may only petition in **one (1) court** (circuit or District), in **one (1) county**.
在结案所在的巡回法院或地区法院提交。一个人终身仅有资格提交一 (1) 次记录非公开申请,并须决定在巡回法院或地区法院提交刑事定罪记录非公开申请, **并且**仅限在一 (1) 个县提交。例如,如果一个人在不同县的巡回法院和地区法院**同时**有一 (1) 项以上合格定罪,则只能在一 **(1) 个县的一 (1) 个法院** (巡回法院或地区法院) 提交申请。

Is there a limit to the number of shielding petitions that may be granted?

对于可获批准的非公开申请数目是否有限制?

A person may be granted only **one (1)** shielding petition **over the person's lifetime**.
一个人终身只能获得一 **(1) 次**记录非公开申请批准。

How long must a person wait until they are eligible to shield convictions?

个人需要等候多长时间才能有资格提出定罪记录非公开申请?

A person may petition to shield their court record no earlier than three (3) years after the person satisfies the sentence imposed for all convictions for which shielding is requested, including parole, probation, or mandatory supervision.
个人不得在申请记录非公开的所有定罪 (包括假释、缓刑或强制监管) 服刑后三 (3) 年内提出法院记录非公开申请。

Can a record be eligible for shielding if a person has pending criminal charges?

如果个人有待决刑事起诉,记录是否符合非公开资格?

If the person is a defendant in a pending criminal proceeding, their records are not eligible for shielding.
如果个人是待决刑事诉讼中的被告,其记录不符合非公开资格。

Can a record be eligible for shielding if a subsequent conviction occurs during the waiting period for shielding?

如果随后的定罪出现在记录非公开等候期间,记录是否符合非公开资格?

If the person is convicted of a new crime during the applicable time period, the original conviction or convictions are not eligible for shielding unless the new conviction becomes eligible for shielding.
如果个人在相关期限内被判犯有新的罪行,除非新定罪符合非公开资格,否则原有定罪或定罪不符合非公开资格。

Can a record be eligible for shielding if one of the charges in the case is not eligible for shielding?

如果案件中的一项指控不符合非公开资格,记录是否符合非公开资格?

If the person is not eligible for shielding of one conviction in a "unit," the person is not eligible for shielding of any other conviction in the unit. "Unit" means two (2) or more convictions that arise from the same incident, transaction, or set of facts.
如果个人的一个“单位”中的一项定罪不符合非公开资格,则该个人在该单位中的任何其他定罪均不符合非公开资格。“单位”指因同一个事件、交易或一系列事实导致的两 (2) 项或两 (2) 项以上定罪。

What is the process for requesting shielding?

申请非公开的程序是什么？

A person or an attorney files a petition to shield conviction records with the appropriate court. The court then serves the petition for shielding on the State's Attorney's Office and sends written notice to all listed victims in the case(s) in which shielding is being requested. The State's Attorney's Office has thirty (30) days to file an objection. In addition, victims have the right to object or offer additional information relevant to the petition for shielding in all proposed actions. If an objection is filed, the court will hold a hearing. If no objection is filed, a judge will grant or deny the petition. The court will issue an Order for Shielding for each case listed where shielding was granted.

个人或律师向相关法院提交定罪记录非公开申请。法院将非公开申请送达至州检察官办公室，并向申请非公开的案件中的所有列出的受害者发出书面通知。州检察官办公室有三十(30)天时间可提出异议。此外，受害者有权在所有提议的行动中提出异议或提供与非公开申请相关的附加信息。如果提出异议，法院将开庭审理。如果未提出异议，法官将批准或拒绝申请。法院将针对每一个批准非公开的所列案件发出非公开命令。

If the petition for shielding is granted, will the information appear on the Maryland Judiciary Case Search website? 如果非公开申请获得批准，信息是否会出现在马里兰州司法部案件搜索网站上？

The Maryland Judiciary Case Search website may not in any way refer to the existence of specific shielded records. 马里兰州司法部案件搜索网站不得以任何方式提及存在具体的非公开记录。

Who has access to shielded information under the Maryland Second Chance Act?

根据《马里兰州第二次机会法案》的规定，谁可以查阅非公开信息？

A shielded record must remain fully accessible by:

必须始终允许以下人员和机构全面查阅非公开记录：

- 1) criminal justice units for legitimate criminal justice purposes;
1) 刑事司法单位出于合法的刑事司法目的；
- 2) prospective or current employers or government licensing agencies that are subject to a statutory or regulatory requirement or authorization to inquire into the criminal background of an applicant or employee for purposes of carrying out that requirement or authorization;
2) 受法定或监管要求或授权约束的未来或当前雇主或政府许可机构，为执行该要求或授权而调查申请人或雇员的犯罪背景；
- 3) a person that is authorized or required to inquire into an individual's criminal background under § 5-561(b), (c), (d), (e), (f), or (g) of the Family Law Article;
3) 根据《家庭法条款》第 5-561(b)、(c)、(d)、(e)、(f) 或 (g) 条的规定，被授权或要求调查个人犯罪背景的人员；
- 4) the person who is the subject of the shielded record and/or that person's attorney;
4) 非公开记录的当事人和/或当事人的律师；
- 5) health occupations boards established under the Health Occupations Article;
5) 根据《健康职业条例》设立的健康职业委员会；
- 6) the Natalie M. LaPrade Medical Cannabis Commission established under Title 13, Subtitle 33 of the Health-General Article;
6) 根据《一般健康条例》第 13 条第 33 项设立的 Natalie M. LaPrade 医学大麻委员会；
- 7) a person that uses volunteers who care for or supervise children;
7) 让志愿者照护或监管儿童的人员；
- 8) a person that attests under penalty of perjury that the person employs or seeks to employ an individual to care for or supervise a minor or vulnerable adult, as defined in § 3-604 of the Criminal Law Article;
8) 根据作伪证将受到处罚的宣誓，证明雇用或试图雇用个人以照护或监管未成年人或弱势成年人(定义见《刑法条款》第 3-604 条)的人员；
- 9) a person who is accessing a shielded record on behalf of and with written authorization from an entity described in Items (1) through (8).
9) 代表并获得第 (1) 到 (8) 项中所述实体的书面授权来查阅非公开记录的人员。

Can an employer consider a case that has been shielded?

雇主是否可以考虑已经非公开的案件？

Yes; however, an employer may not require a person who applies for employment to disclose shielded information about criminal charges in an application, an interview, or otherwise. They also may not discharge or refuse to hire a person solely because the person refused to disclose information about criminal charges that have been shielded.

是；但是，雇主不得要求申请工作的人员在申请、面谈或其他场合披露有关刑事指控的非公开信息。他们亦不得仅因为该人员拒绝披露有关已经非公开的刑事指控的信息而解雇或拒绝雇用该人员。

Can a school refuse to admit or expel me based on a case that has been shielded?

学校是否能根据已经非公开的案件拒绝录取或开除我？

An education institution may not require a person who applies for admission to the institution to disclose shielded information about criminal charges in an application, an interview, or otherwise. They also may not expel or refuse to admit a person solely because the person refused to disclose information about criminal charges that have been shielded.

教育机构不得要求申请教育机构录取的人员在申请、面谈或其他场合披露有关刑事指控的非公开信息。他们亦不得仅因为该人员拒绝披露有关已经非公开的刑事指控的信息而开除或拒绝录取该人员。

Can a unit, an official, or an employee of the State or a political subdivision deny my application for a permit, registration, or government services based on a case that has been shielded?

国家或政府分支机构的部门、官员或雇员是否能根据已经非公开的案件拒绝我的许可、注册或公职申请？

A unit, official, or employee of the State or political subdivision of the State cannot require a person who applies for a permit, registration, or government service to disclose shielded information about criminal charges in an application, interview, or otherwise. They also cannot deny a person's application for a permit, registration, or government service solely because a person refused to disclose information about shielded criminal charges.

国家或国家政府分支机构的部门、官员或雇员不得要求申请许可、注册或公职的人员在申请、面谈或其他场合披露有关刑事指控的非公开信息。他们亦不得仅因为该人员拒绝披露有关非公开刑事指控的信息而拒绝该人员的许可、注册或公职申请。