

## Presenting Government Records as Evidence in a Civil Suit

To get a record into evidence at trial you usually have the person who prepared the record come to court as a witness and provide testimony regarding that record. There are, however, exceptions to that rule.

Virginia law permits **government records** to be entered into evidence by affidavit (a written declaration made under oath). Records and reports, prepared by public officials in connection with a duty imposed by statute or required by the nature of their offices, can be introduced by an affidavit. These records are admissible as proof of the facts stated when the copies are authenticated to be true. Authentication is done either by the custodian (the person at the government agency responsible for maintaining the records) or by the person to whom the custodian reports, if they are different.

Sometimes you want proof that there is no record on file with the government agency. In that case the custodian or the person to whom the custodian reports can provide an affidavit stating that after they conducted a due diligent search, no record or entry of the record was found to exist.

### Form

#### Affidavit Regarding Governmental Record(s)

[http://www.potomaclegalaid.org/literature\\_29175/Affidavit\\_Requesting\\_Governmental\\_Record\(s\)](http://www.potomaclegalaid.org/literature_29175/Affidavit_Requesting_Governmental_Record(s))

The image shows a portion of a legal form titled "VIRGINIA: AFFIDAVIT REGARDING GOVERNMENTAL RECORD(S)". At the top, it says "IN THE \_\_\_\_\_ COURT". Below this, there are lines for "Plaintiff" and "Defendant" separated by a "vs." and a vertical line of closing parentheses. To the right of this section is a line for "Case No. \_\_\_\_\_". Below the case number, the title "AFFIDAVIT REGARDING GOVERNMENTAL RECORD(S)" is centered. The first numbered question reads: "1. I am the \_\_\_\_\_ with \_\_\_\_\_" with a small example below: "For example, Freedom of Information Act Coordinator with the VA Dept. of Medical Assistance Services". The second question reads: "2. Upon request of the Plaintiff Defendant, I searched the Agency's records for: \_\_\_\_\_".

This is the top part of the **Affidavit Regarding Governmental Record(s)**.

### Statute

§ 8.01-390. Nonjudicial records as evidence

If you want non-public records (either medical or non-medical), but you are not presenting them into evidence, see **Authorization to Release Records** and the **Authorization to Release Health Records**. Use the **Authorization to Release Records** to request non-health records and the **Authorization to Release Health Records** for health-care records.