

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

H.762

Introduced by Representatives Goslant of Northfield, Oliver of Sheldon,
Bartley of Fairfax, Beck of St. Johnsbury, Branagan of Georgia,
Burditt of West Rutland, Clifford of Rutland City, Demar of
Enosburgh, Graham of Williamstown, Hango of Berkshire,
Harrison of Chittenden, Labor of Morgan, Maguire of Rutland
City, McFaun of Barre Town, Morgan of Milton, Morrissey of
Bennington, Page of Newport City, Peterson of Clarendon,
Shaw of Pittsford, Smith of Derby, Walker of Swanton, and
Williams of Barre City

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; expungement and sealing of criminal
history records

Statement of purpose of bill as introduced: This bill proposes to amend
existing expungement and sealing laws to create a single process for sealing
criminal history records. Records would no longer be destroyed, but sealed
from general public inspection, and certain persons and entities would have
access to sealed records for specific purposes. This bill also proposes to
remove the requirement that a requestor of criminal history and conviction
records provide the date of birth of the individual whose information is being

1 sought and require the Vermont Crime Information Center to provide a
2 disclaimer that a request based only on an individual's name may yield other
3 individuals with the same name and that it is the requestor's responsibility to
4 verify the information, use it responsibly, and use it in accordance with the
5 law.

6 An act relating to a single process for sealing criminal history records

7 It is hereby enacted by the General Assembly of the State of Vermont:

8 Sec. 1. 13 V.S.A. chapter 230 is amended to read:

9 CHAPTER 230. ~~EXPUNGEMENT AND~~ SEALING OF CRIMINAL
10 HISTORY RECORDS

11 § 7601. DEFINITIONS

12 As used in this chapter:

13 (1) "Court" means the Criminal Division of the Superior Court.

14 (2) "Criminal history record" means all information documenting an
15 individual's contact with the criminal justice system, including data regarding
16 identification, arrest or citation, arraignment, judicial disposition, custody, and
17 supervision.

18 (3) "Predicate offense" means a criminal offense that can be used to
19 enhance a sentence levied for a later conviction and includes operating a
20 vehicle under the influence of alcohol or other substance in violation of

1 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,
2 and stalking in violation of section 1062 of this title. “Predicate offense” ~~shall~~
3 does not include misdemeanor possession of cannabis, a disorderly conduct
4 offense under section 1026 of this title, or possession of a controlled substance
5 in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a),
6 4234a(a), 4234b(a), 4235(b), or 4235a(a).

7 (4) “Qualifying crime” means:

8 (A) ~~a misdemeanor~~ an offense that is not:

9 (i) a listed crime as defined in subdivision 5301(7) of this title;

10 (ii) an offense involving sexual exploitation of children in
11 violation of chapter 64 of this title;

12 (iii) an offense involving violation of a protection order in
13 violation of section 1030 of this title;

14 (iv) ~~prostitution as defined in section 2632 of this title, or~~
15 ~~prohibited conduct under section 2601a of this title; or~~ an offense for which
16 transfer from Family Division to the Criminal Division is permitted pursuant to
17 33 V.S.A. § 5204;

18 (v) offenses related to abandonment or exposure of a baby as
19 provided in section 1303 of this title; cruelty to a child as provided in section
20 1304 of this title; cruelty by person having custody of another as provided in

1 section 1305 of this title; and mistreatment of persons with impaired cognitive
2 function as provided in section 1306 of this title;

3 (vi) a violation of chapter 28 of this title related to abuse, neglect,
4 and exploitation of a vulnerable adult;

5 (vii) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c) related to
6 selling, dispensing, or trafficking cocaine; 4232(b)(2) or (b)(3) related to
7 selling or dispensing LSD; 4233(b)(2), (b)(3), or (c) related to selling,
8 dispensing, or trafficking heroin; 4234(b)(2) or (b)(3) related to selling or
9 dispensing depressants, stimulants, and narcotics; 4234a(b)(2), (b)(3), or (c)
10 related to selling, dispensing, or trafficking methamphetamine; 4235(c)(2) or
11 (c)(3) related to selling or dispensing hallucinogenic drugs; 4235a(b)(2) or
12 (b)(3) related to selling or dispensing Ecstasy;

13 (viii) a violation of section 352 of this title related to cruelty to
14 animals or section 352a related to aggravated cruelty to animals;

15 (ix) a violation of section 3 of this title relating to accessory aiding
16 commission of felony; section 4 of this title relating to accessory before the
17 fact; and section 5 relating to accessory after the fact as these offenses relate to
18 a listed crime as defined in section 5301 of this title;

19 (x) any offense subject to a hate-motivated crime penalty
20 enhancement as provided in section 1455 of this title;

1 (xi) a violation of section 502 of this title related to first degree
2 arson and section 503 of this title related to second degree arson;

3 (xii) a violation of section 1032 of this title related to law
4 enforcement use of a chokehold;

5 (xiii) a violation of subdivisions 1063(1), (2), or (5) of this title
6 related to aggravated stalking;

7 (xiv) a violation of 1601 of this title related to willful and
8 malicious injuries caused by explosives;

9 (xv) a violation of section 2306 of this title related to poisoning
10 food, drink, medicine, or water;

11 (xvi) a violation of sections 2531–2535 and 2537–2538 of this
12 title related to embezzlement;

13 (xvii) a violation of section 2635 of this title related to slave
14 traffic;

15 (xviii) a violation of section 3151 of this title related to female
16 genital mutilation;

17 (xix) a violation of section 3258 of this title related to sexual
18 exploitation of a minor;

19 (xx) a violation of section 3259 of this title related to sexual
20 exploitation of person under the supervision of the Department of Corrections;

1 (xxi) a violation of section 3259 of this title relating to sexual
2 exploitation of a person in the custody of a law enforcement officer;

3 (xxii) a violation of subdivision 4058(b)(1) of this title related to
4 violation of an extreme risk protection order;

5 (xxiii) a violation of 18 V.S.A. § 4250 relating to selling or
6 dispensing a regulated drug with death resulting;

7 (xxiv) a violation of section 3502 or 3503 of this title related to
8 weapons of mass destruction;

9 (xxv) a violation of 3251 of this title related to domestic terrorism;

10 (xxvi) an offense subject to habitual criminal enhancement penalty
11 enhancement as provided in section 11 of this title; or

12 ~~(v)~~(xxvii) a predicate offense; or

13 ~~(B) a violation of subsection 3701(a) of this title related to criminal~~
14 ~~mischief;~~

15 ~~(C) a violation of section 2501 of this title related to grand larceny;~~

16 ~~(D) a violation of section 1201 of this title related to burglary,~~
17 ~~excluding any burglary into an occupied dwelling, as defined in subdivision~~
18 ~~1201(b)(2) of this title;~~

19 ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

20 ~~(F) a violation of section 1802 of this title related to uttering a forged~~
21 ~~or counterfeited instrument;~~

1 ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and~~
2 ~~cultivation of cannabis;~~

3 ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of~~
4 ~~cocaine;~~

5 ~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

6 ~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

7 ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of~~
8 ~~depressant, stimulant, and narcotic drugs;~~

9 ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of~~
10 ~~methamphetamine;~~

11 ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of~~
12 ~~ephedrine and pseudoephedrine;~~

13 ~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of~~
14 ~~hallucinogenic drugs;~~

15 ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of~~
16 ~~ecstasy; or~~

17 ~~(P) any offense for which a person has been granted an unconditional~~
18 ~~pardon from the Governor.~~

19 ~~§ 7602. EXPUNGEMENT AND SEALING OF RECORD,~~

20 ~~POSTCONVICTION; PROCEDURE PETITION TO SEAL~~

21 ~~RECORD~~

1 (a)(1) A person may file a petition with the court requesting ~~expungement~~
2 ~~or~~ sealing of ~~the~~ a criminal history record related to ~~the~~ a conviction if:

3 (A) the person was convicted of a qualifying crime or qualifying
4 crimes arising out of the same incident or occurrence; or

5 (B) the person was convicted of an offense for which the underlying
6 conduct is no longer prohibited by law or designated as a criminal offense;

7 ~~(C) pursuant to the conditions set forth in subsection (g) of this~~
8 ~~section, the person was convicted of a violation of 23 V.S.A. § 1201(a) or~~
9 ~~§ 1091 related to operating under the influence of alcohol or other substance,~~
10 ~~excluding a violation of those sections resulting in serious bodily injury or~~
11 ~~death to any person other than the operator, or related to operating a school bus~~
12 ~~with a blood alcohol concentration of 0.02 or more or operating a commercial~~
13 ~~vehicle with a blood alcohol concentration of 0.04 or more; or~~

14 ~~(D) pursuant to the conditions set forth in subsection (h) of this~~
15 ~~section, the person was convicted under 1201(c)(3)(A) of a violation of~~
16 ~~subdivision 1201(a) of this title related to burglary when the person was 25~~
17 ~~years of age or younger, and the person did not carry a dangerous or deadly~~
18 ~~weapon during commission of the offense.~~

19 (2) The Whichever office prosecuted the offense resulting in the
20 conviction, the State's Attorney or Attorney General, shall be the respondent in

1 the matter unless the prosecuting office authorizes the other to act as the
2 respondent.

3 (3) ~~The court shall grant the petition without hearing if the petitioner~~
4 ~~and the respondent stipulate to the granting of the petition. The respondent~~
5 ~~shall file the stipulation with the court, and the court shall issue the petitioner~~
6 ~~an order of expungement and provide notice of the order in accordance with~~
7 ~~this section~~ Prior to filing a petition with the court, the petitioner shall contact
8 the respondent to determine whether the respondent stipulates that the
9 conditions in subsection (b) of this section have been met or that granting the
10 petition otherwise serves the interests of justice and shall provide the
11 respondent with a current criminal history record. If the respondent stipulates
12 that the conditions have been met or that granting the petition otherwise serves
13 the interests of justice, the respondent shall file the petition with the court. If
14 the respondent does not stipulate, the petitioner may file the petition that
15 discloses the fact that the respondent did not stipulate that the conditions have
16 been met or that granting the petition otherwise serves the interests of justice
17 and shall provide the court with a current criminal history record. If no
18 stipulation is filed with the petition, the court shall hold a hearing on the
19 petition. If a stipulation is filed with the petition, the court may, but is not
20 required to, hold a hearing on the petition.

1 (4) This section shall not apply to an individual licensed as a
2 commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal ~~or expunge~~
3 a record of a conviction for a felony offense committed in a motor vehicle as
4 defined in 23 V.S.A. § 4.

5 (b)~~(1)~~ The court shall grant the petition and order that the criminal history
6 record be ~~expunged pursuant to section 7606 of this title~~ sealed if the following
7 conditions are met:

8 ~~(A)~~(1) At least ~~five~~ three years have elapsed since the date on which
9 the person successfully completed the terms and conditions of the sentence for
10 the conviction, or if the person has successfully completed the terms and
11 conditions of an indeterminate term of probation that commenced at least ~~five~~
12 three years previously.

13 ~~(B)~~(2) The person has not been arrested for, charged with, or
14 convicted of a crime arising out of a new incident or occurrence ~~since the~~
15 ~~person was convicted for the qualifying crime~~ in the six years preceding the
16 filing of the petition.

17 (3) The person has not been arrested for, charged with, or convicted of a
18 crime arising out of a new incident or occurrence while the petition was
19 pending before the court.

1 ~~(C)~~(4) Any restitution and surcharges ordered by the court have been
2 paid in full, provided that payment of surcharges shall not be required if the
3 surcharges have been waived by the court pursuant to section 7282 of this title.

4 ~~(D)~~(5) The court finds that expungement of the criminal history
5 record serves the interests of justice.

6 ~~(2) The court shall grant the petition and order that all or part of the~~
7 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
8 ~~conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and~~
9 ~~the court finds that:~~

10 ~~(A) sealing the criminal history record better serves the interests of~~
11 ~~justice than expungement; and~~

12 ~~(B) the person committed the qualifying crime after reaching 19~~
13 ~~years of age.~~

14 ~~(c)(1) The court shall grant the petition and order that the criminal history~~
15 ~~record be expunged pursuant to section 7606 of this title if the following~~
16 ~~conditions are met:~~

17 ~~(A) At least 10 years have elapsed since the date on which the person~~
18 ~~successfully completed the terms and conditions of the sentence for the~~
19 ~~conviction.~~

20 ~~(B) The person has not been convicted of a felony arising out of a~~
21 ~~new incident or occurrence in the last seven years.~~

1 ~~(C) The person has not been convicted of a misdemeanor during the~~
2 ~~past five years.~~

3 ~~(D) Any restitution and surcharges ordered by the court for any crime~~
4 ~~of which the person has been convicted has been paid in full, provided that~~
5 ~~payment of surcharges shall not be required if the surcharges have been waived~~
6 ~~by the court pursuant to section 7282 of this title.~~

7 ~~(E) After considering the particular nature of any subsequent offense,~~
8 ~~the court finds that expungement of the criminal history record for the~~
9 ~~qualifying crime serves the interests of justice.~~

10 ~~(2) The court shall grant the petition and order that all or part of the~~
11 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
12 ~~conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met~~
13 ~~and the court finds that:~~

14 ~~(A) sealing the criminal history record better serves the interests of~~
15 ~~justice than expungement; and~~

16 ~~(B) the person committed the qualifying crime after reaching 19~~
17 ~~years of age.~~

18 ~~(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section,~~
19 ~~unless the court finds that expungement would not be in the interests of justice,~~
20 ~~the court shall grant the petition and order that the criminal history record be~~

1 ~~expunged in accordance with section 7606 of this title if the following~~
2 ~~conditions are met:~~

3 ~~(1) The petitioner has completed any sentence or supervision for the~~
4 ~~offense.~~

5 ~~(2) Any restitution and surcharges ordered by the court have been paid~~
6 ~~in full, provided that payment of surcharges shall not be required if the~~
7 ~~surcharges have been waived by the court pursuant to section 7282 of this title.~~

8 ~~(e)(c)~~ For petitions filed pursuant to subdivision (a)(1)(B) of this section
9 for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84,
10 subchapter 1 in an amount that is no longer prohibited by law or for which
11 criminal sanctions have been removed:

12 (1) The petitioner shall bear the burden of establishing that ~~his or her~~ the
13 petitioner's conviction was based on possessing an amount of regulated drug
14 that is no longer prohibited by law or for which criminal sanctions have been
15 removed.

16 (2) There shall be a rebuttable presumption that the amount of the
17 regulated drug specified in the affidavit of probable cause associated with the
18 petitioner's conviction was the amount possessed by the petitioner.

19 ~~(f)(d)~~ Prior to granting ~~an expungement or sealing under this section for~~
20 ~~petitions filed pursuant to subdivision 7601(4)(D) of this title~~ a petition to seal
21 criminal history records related to a conviction for burglary under section 1201

1 of this title, the court shall make a finding that the conduct underlying the
2 conviction ~~under section 1201 of this title~~ did not constitute a burglary into an
3 occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The
4 petitioner shall bear the burden of establishing this fact.

5 (e) Absent a stipulation from the respondent, when criminal history records
6 eligible for sealing under this section pertain to one charge in a docket
7 containing multiple charges, the criminal history records shall not be eligible
8 for sealing until all of the charges in the docket are eligible for sealing either
9 pursuant to this section or section 7603 of this title.

10 ~~(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only~~
11 ~~petitions to seal may be considered or granted by the court. This subsection~~
12 ~~shall not apply to an individual licensed as a commercial driver pursuant to~~
13 ~~23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the~~
14 ~~interests of justice, the court shall grant the petition and order that the criminal~~
15 ~~history record be sealed in accordance with section 7607 of this title if the~~
16 ~~following conditions are met:~~

17 ~~(1) At least 10 years have elapsed since the date on which the person~~
18 ~~successfully completed the terms and conditions of the sentence for the~~
19 ~~conviction, or if the person has successfully completed the terms and~~
20 ~~conditions of an indeterminate term of probation that commenced at least 10~~
21 ~~years previously.~~

1 ~~(2) At the time of the filing of the petition:~~

2 ~~(A) the person has only one conviction of a violation of 23 V.S.A.~~
3 ~~§ 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and~~

4 ~~(B) the person has not been convicted of a crime arising out of a new~~
5 ~~incident or occurrence since the person was convicted of a violation of~~
6 ~~23 V.S.A. § 1201(a).~~

7 ~~(3) Any restitution ordered by the court has been paid in full.~~

8 ~~(4) The court finds that sealing of the criminal history record serves the~~
9 ~~interests of justice.~~

10 ~~(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section,~~
11 ~~unless the court finds that expungement or sealing would not be in the interests~~
12 ~~of justice, the court shall grant the petition and order that the criminal history~~
13 ~~record be expunged or sealed in accordance with section 7606 or 7607 of this~~
14 ~~title if the following conditions are met:~~

15 ~~(1) At least 15 years have elapsed since the date on which the person~~
16 ~~successfully completed the terms and conditions of the sentence for the~~
17 ~~conviction, or the person has successfully completed the terms and conditions~~
18 ~~of an indeterminate term of probation that commenced at least 15 years~~
19 ~~previously.~~

1 ~~(2) The person has not been convicted of a crime arising out of a new~~
2 ~~incident or occurrence since the person was convicted of a violation of~~
3 ~~subdivision 1201(c)(3)(A) of this title.~~

4 ~~(3) Any restitution ordered by the court has been paid in full.~~

5 ~~(4) The court finds that expungement or sealing of the criminal history~~
6 ~~record serves the interests of justice.~~

7 § 7603. ~~EXPUNGEMENT AND~~ AUTOMATIC SEALING OF RECORD;
8 NO CONVICTION; PROCEDURE

9 ~~(a) Unless either party objects in the interests of justice, the court shall~~
10 ~~issue an order sealing the criminal history record related to the citation or arrest~~
11 ~~of a person:~~

12 ~~(1) within 60 days after the final disposition of the case if:~~

13 ~~(A) the court does not make a determination of probable cause at the~~
14 ~~time of arraignment; or~~

15 ~~(B) the charge is dismissed before trial without prejudice; or~~

16 ~~(2) at any time if the prosecuting attorney and the defendant stipulate that the~~
17 ~~court may grant the petition to seal the record~~ Except as provided in subsection
18 (b) of this section, custodians of criminal history records shall seal them
19 without the need for a petition to be filed pursuant to section 7602 of this title
20 in the following circumstances:

1 (1) criminal history records of an arrest or citation when no criminal
2 charges have been filed and the applicable statute of limitations has expired;

3 (2) criminal history records pertaining to a charge that has been
4 dismissed without prejudice and the applicable statute of limitations has
5 expired;

6 (3) criminal history records pertaining to a charge that has been
7 dismissed with prejudice;

8 (4) criminal history records pertaining to a charge for which the
9 defendant has been acquitted;

10 (5) criminal history records pertaining to a conviction that has been
11 vacated without the possibility of further legal proceedings; and

12 (6) criminal history records pertaining to a conviction for which the
13 defendant has received from the Governor an unconditional pardon.

14 ~~(b) If a party objects to sealing or expunging a record pursuant to this~~
15 ~~section, the court shall schedule a hearing to determine if sealing or expunging~~
16 ~~the record serves the interests of justice. The defendant and the prosecuting~~
17 ~~attorney shall be the only parties in the matter~~ Absent a stipulation from
18 respondent, when criminal history records otherwise eligible for automatic
19 sealing under this section pertain to one charge in a docket containing multiple
20 charges, the criminal history records shall not be eligible for sealing until all of

1 the charges in the docket are eligible for sealing either pursuant to this section
2 or section 7602 of this title.

3 (c) [Repealed.]

4 (d) [Repealed.]

5 ~~(e) Unless either party objects in the interests of justice, the court shall~~
6 ~~issue an order expunging a criminal history record related to the citation or~~
7 ~~arrest of a person:~~

8 ~~(1) within 60 days after the final disposition of the case if:~~

9 ~~(A) the defendant is acquitted of the charges; or~~

10 ~~(B) the charge is dismissed with prejudice;~~

11 ~~(2) at any time if the prosecuting attorney and the defendant stipulate~~
12 ~~that the court may grant the petition to expunge the record. [Repealed.]~~

13 ~~(f) Unless either party objects in the interests of justice, the court shall issue~~
14 ~~an order to expunge a record sealed pursuant to subsection (a) or (g) of this~~
15 ~~section eight years after the date on which the record was sealed. [Repealed.]~~

16 ~~(g) A person may file a petition with the court requesting sealing or~~
17 ~~expungement of a criminal history record related to the citation or arrest of the~~
18 ~~person at any time. The court shall grant the petition and issue an order sealing~~
19 ~~or expunging the record if it finds that sealing or expunging the record serves~~
20 ~~the interests of justice, or if the parties stipulate to sealing or expungement of~~
21 ~~the record. [Repealed.]~~

1 (h) ~~The court may expunge any records that were sealed pursuant to this~~
2 ~~section prior to July 1, 2018 unless the State's Attorney's office that~~
3 ~~prosecuted the case objects. Thirty days prior to expunging a record pursuant~~
4 ~~to this subsection, the court shall provide to the State's Attorney's office that~~
5 ~~prosecuted the case written notice of its intent to expunge the record.~~

6 [Repealed.]

7 (i) The defendant and any custodian of criminal history records eligible for
8 automatic sealing pursuant to this section may file a motion with the court
9 requesting permission not to seal the criminal history records not later than
10 30 days following the date the criminal history records become eligible for
11 sealing. Upon receipt of such a motion, the court shall schedule a hearing to
12 determine whether sealing serves the interests of justice. The defendant,
13 prosecuting attorney, and custodian of the relevant criminal history records
14 shall be the only parties in the matter.

15 § 7604. NEW CHARGE

16 If a person is charged with a criminal offense after ~~he or she~~ the person has
17 filed a petition for ~~expungement~~ sealing pursuant to this chapter, the court shall
18 not act on the petition until disposition of the new charge.

19 § 7605. DENIAL OF PETITION

1 If a petition for ~~expungement~~ sealing is denied by the court pursuant to this
2 chapter, no further petition shall be brought for at least two years, unless a
3 shorter duration is authorized by the court.

4 § 7606. ~~EFFECT OF EXPUNGEMENT~~

5 ~~(a) Order and notice. Upon finding that the requirements for expungement~~
6 ~~have been met, the court shall issue an order that shall include provisions that~~
7 ~~its effect is to annul the record of the arrest, conviction, and sentence and that~~
8 ~~such person shall be treated in all respects as if the person had never been~~
9 ~~arrested, convicted, or sentenced for the offense. The court shall provide~~
10 ~~notice of the expungement to the respondent, Vermont Crime Information~~
11 ~~Center (VCIC), the arresting agency, the Restitution Unit of the Vermont~~
12 ~~Center for Crime Victim Services, and any other entity that may have a record~~
13 ~~related to the order to expunge. The VCIC shall provide notice of the~~
14 ~~expungement to the Federal Bureau of Investigation's National Crime~~
15 ~~Information Center.~~

16 ~~(b) Effect.~~

17 ~~(1) Upon entry of an expungement order, the order shall be legally~~
18 ~~effective immediately and the person whose record is expunged shall be treated~~
19 ~~in all respects as if he or she had never been arrested, convicted, or sentenced~~
20 ~~for the offense.~~

1 ~~(2) In any application for employment, license, or civil right or privilege~~
2 ~~or in an appearance as a witness in any proceeding or hearing, a person may be~~
3 ~~required to answer questions about a previous criminal history record only with~~
4 ~~respect to arrests or convictions that have not been expunged.~~

5 ~~(3) The response to an inquiry from any person regarding an expunged~~
6 ~~record shall be that "NO CRIMINAL RECORD EXISTS."~~

7 ~~(4) Nothing in this section shall affect any right of the person whose~~
8 ~~record has been expunged to rely on it as a bar to any subsequent proceedings~~
9 ~~for the same offense.~~

10 ~~(e) Process.~~

11 ~~(1) The court shall remove the expunged offense from any accessible~~
12 ~~database that it maintains.~~

13 ~~(2) Until all charges on a docket are expunged, the case file shall remain~~
14 ~~publicly accessible.~~

15 ~~(3) When all charges on a docket have been expunged, the case file shall~~
16 ~~be destroyed pursuant to policies established by the Court Administrator.~~

17 ~~(d) Special index.~~

18 ~~(1) The court shall keep a special index of cases that have been~~
19 ~~expunged together with the expungement order. The index shall list only the~~
20 ~~name of the person convicted of the offense, his or her date of birth, the docket~~
21 ~~number, and the criminal offense that was the subject of the expungement.~~

1 ~~(2) The special index and related documents specified in subdivision (1)~~
2 ~~of this subsection shall be confidential and shall be physically and~~
3 ~~electronically segregated in a manner that ensures confidentiality and that~~
4 ~~limits access to authorized persons.~~

5 ~~(3) Inspection of the expungement order may be permitted only upon~~
6 ~~petition by the person who is the subject of the case. The Chief Superior Judge~~
7 ~~may permit special access to the index and the documents for research~~
8 ~~purposes pursuant to the rules for public access to court records.~~

9 ~~(4) [Repealed].~~

10 ~~(5) The Court Administrator shall establish policies for implementing~~
11 ~~this subsection. [Repealed.]~~

12 § 7606a. EFFECT OF SEALING

13 (a) Order and notice. The court shall send a copy of any order granting a
14 petition to seal a criminal history record to all of the parties and attorneys
15 representing the parties, including to the prosecuting agency that prosecuted
16 the offense, the Vermont Crime Information Center (VCIC), the arresting
17 agency, and any other entity the court determines possess criminal history
18 records related to the petition. VCIC shall provide notice of the sealing order
19 to the Federal Bureau of Investigation's National Crime Information Center.

20 (b) Effect.

1 (1) Any order granting a petition to seal a criminal history record shall
2 be effective immediately and shall include provisions explaining the effects of
3 sealing as set forth in this subsection (b).

4 (2) When an order to seal a criminal history record is issued or when a
5 criminal history record is automatically sealed pursuant to this chapter, the
6 effect shall be that the record of arrest, conviction, and sentence is annulled
7 while the record remains sealed and the person whose record is sealed shall be
8 treated in all respects as if the person had never been arrested, convicted, or
9 sentenced for the offense.

10 (3) In any application for employment, license, or civil right or privilege
11 or in an appearance as a witness in any proceeding or hearing, a person may be
12 required to answer questions about a previous criminal history record only with
13 respect to arrests or convictions that have not been sealed. Notwithstanding
14 the foregoing, when information contained in a sealed criminal history record
15 would otherwise be admissible to impeach the person's testimony, the court
16 may, at the request of either party or on its own motion, inform the jury about
17 the information, explain to the jury that the information has been sealed, and
18 explain to the jury the effect of sealing under this chapter.

19 (4) Except provided in subsection (c) of this section, any person or
20 entity that receives an order to seal a criminal history record or that possesses

1 criminal history records that have been sealed shall respond to any inquiry
2 regarding the sealed record that “NO CRIMINAL RECORD EXISTS.”

3 (5) Nothing in this section shall affect any right of the person whose
4 record has been sealed to rely on it as a bar to any subsequent proceeding for
5 the same offense.

6 (c) Exceptions.

7 (1) The person whose criminal history records have been sealed
8 pursuant to this chapter and the person’s attorney may inspect and receive
9 copies of the sealed records.

10 (2) A State’s Attorney and the Attorney General may disclose
11 information contained in a sealed criminal history record when required to
12 meet their otherwise legally required discovery obligations.

13 (3) A State’s Attorney and Attorney General may disclose information
14 contained in a sealed criminal history record when a reasonable lawyer would
15 believe such disclosure is required to protect a witness, victim, defendant, or
16 prosecution from substantial undue prejudicial effect of recent publicity not
17 initiated by the State’s Attorney or Attorney General. A disclosure made
18 pursuant to this subdivision shall be limited to such information as is necessary
19 to mitigate the recent adverse publicity.

20 (4) Any person or entity who possesses sealed criminal history records
21 may disclose those records to the Vermont Center for Crime Victim Services

1 for the purposes of administering the Crime Victim’s Restitution Special Fund
2 and its Restitution Unit.

3 (5) Federal and state law enforcement agencies may use information
4 contained in a sealed criminal history record for criminal justice purposes as
5 defined in 20 V.S.A. § 2056a.

6 (6) The court may consider any sealed criminal history information at
7 sentencing for a subsequent conviction.

8 (7) The court may issue an order permitting information from a sealed
9 criminal history record to be disclosed to an employer or a person or entity that
10 issues licenses, professional licenses, or professional certifications upon a
11 showing by the employer, person, or entity that the sealed information is
12 relevant to the employment, license, or certification and that there is a
13 substantial risk that the employer, person, entity, or public may suffer physical
14 or financial harm if the disclosure is not permitted. An employer, person, or
15 entity seeking disclosure pursuant to this subsection (c) shall serve a copy of
16 any motion seeking the disclosure upon the person whose criminal history
17 records have been sealed and upon the holder of the criminal history record
18 from whom disclosure is sought.

19 (8) The court, prosecutor, and defense counsel may inspect and receive
20 copies of a person’s sealed criminal history records if the person who is the
21 subject of the records is a witness in a criminal proceeding.

1 (9) A plaintiff and defendant in a civil proceeding may inspect and
2 receive copies of a person’s sealed criminal history records if the person who is
3 the subject of the records is a witness in the civil proceeding.

4 (10) Entities that are required by state or federal law to request a
5 fingerprint-based background check of criminal history information may
6 inspect and receive copies of criminal history records sealed pursuant to this
7 chapter.

8 (11) A law enforcement agency may inspect and receive copies of the
9 sealed criminal history records of any applicant who applies to the agency to
10 be a law enforcement officer.

11 (12) A federal, state, or local law enforcement agency or officer with
12 responsibility for conducting a criminal history background check may inspect
13 and receive copies of sealed records before transfer or sale of a firearm or
14 explosive. This shall include the Criminal Justice Information Services
15 Division of the Federal Bureau of Investigation for purposes of responding to
16 queries to the National Instant Background Check System regarding attempts
17 to purchase or otherwise take possession of firearms.

18 (13) Inspection and copies of sealed criminal history records shall be
19 available for purposes of civilian investigation or evaluation of a civilian
20 complaint or civil action concerning conduct by a law enforcement officer or a
21 prosecutor.

1 (d) Process. When a sealing order is issued by the court or when criminal
2 history records are automatically sealed, any person or entity that possesses
3 criminal history records shall:

4 (1) remove information pertaining to the sealed records from any
5 publicly accessible database that the person or entity maintains; and

6 (2) clearly label the criminal history record as “SEALED” to ensure
7 compliance with subsection (b) of this section.

8 (e) Special index.

9 (1) The court shall keep, and each custodian of a sealed criminal history
10 record may keep, a special index of cases that have been sealed. The index
11 shall list only the name of the person convicted of the offense, the person’s
12 date of birth, the docket number, and the criminal offense that was the subject
13 of the sealed record.

14 (2) The special index and related documents specified in subdivision (1)
15 of this subsection shall be confidential and shall be physically and
16 electronically labeled in a manner that ensures confidentiality and that limits
17 access to authorized persons.

18 (3) The Chief Superior Judge may permit special access to the index
19 maintained by the court and the documents for research purposes pursuant to
20 the rules for public access to court records.

21 § 7607. ~~EFFECT OF SEALING~~

1 ~~(a) Order and notice. Upon entry of an order to seal, the order shall be~~
2 ~~legally effective immediately and the person whose record is sealed shall be~~
3 ~~treated in all respects as if the person had never been arrested, convicted, or~~
4 ~~sentenced for the offense and that its effect is to annul the record of arrest,~~
5 ~~conviction, and sentence. The court shall provide notice of the sealing to the~~
6 ~~respondent, Vermont Crime Information Center (VCIC), the arresting agency,~~
7 ~~the Restitution Unit of the Vermont Center for Crime Victims Services, and~~
8 ~~any other entity that may have a record related to the order to seal. The VCIC~~
9 ~~shall provide notice of the sealing to the Federal Bureau of Investigation's~~
10 ~~National Crime Information Center.~~

11 ~~(b) Effect.~~

12 ~~(1) Except as provided in subdivision (c) of this section, upon entry of a~~
13 ~~sealing order, the order shall be legally effective immediately and the person~~
14 ~~whose record is sealed shall be treated in all respects as if he or she had never~~
15 ~~been arrested, convicted, or sentenced for the offense.~~

16 ~~(2) In any application for employment, license, or civil right or privilege~~
17 ~~or in an appearance as a witness in any proceeding or hearing, a person may be~~
18 ~~required to answer questions about a previous criminal history record only with~~
19 ~~respect to arrests or convictions that have not been sealed.~~

20 ~~(3) The response to an inquiry from any member of the public regarding~~
21 ~~a sealed record shall be that "NO CRIMINAL RECORD EXISTS."~~

1 ~~(c) Exceptions. Notwithstanding any other provision of law or a sealing~~
2 ~~order:~~

3 ~~(1) An entity that possesses a sealed record may continue to use it for~~
4 ~~any litigation or claim arising out of the same incident or occurrence or~~
5 ~~involving the same defendant.~~

6 ~~(2) A criminal justice agency as defined in 20 V.S.A. § 2056a may use~~
7 ~~the criminal history record sealed in accordance with section 7602 or 7603 of~~
8 ~~this title without limitation for criminal justice purposes as defined in~~
9 ~~20 V.S.A. § 2056a. A sealed record of a prior violation of 23 V.S.A. § 1201(a)~~
10 ~~shall be admissible as a predicate offense for the purpose of imposing an~~
11 ~~enhanced penalty for a subsequent violation of that section, in accordance with~~
12 ~~the provisions of 23 V.S.A. § 1210.~~

13 ~~(d) Process:~~

14 ~~(1) The court shall bar viewing of the sealed offense in any accessible~~
15 ~~database that it maintains.~~

16 ~~(2) Until all charges on a docket have been sealed, the case file shall~~
17 ~~remain publicly accessible.~~

18 ~~(3) When all charges on a docket have been sealed, the case file shall~~
19 ~~become exempt from public access.~~

20 ~~(e) Special index.~~

1 ~~(1) The court shall keep a special index of cases that have been sealed~~
2 ~~together with the sealing order. The index shall list only the name of the~~
3 ~~person convicted of the offense, his or her date of birth, the docket number,~~
4 ~~and the criminal offense that was the subject of the sealing.~~

5 ~~(2) The special index and related documents specified in subdivision (1)~~
6 ~~of this subsection shall be confidential and shall be physically and~~
7 ~~electronically segregated in a manner that ensures confidentiality and that~~
8 ~~limits access to authorized persons.~~

9 ~~(3) Except as provided in subsection (e) of this section, inspection of the~~
10 ~~sealing order may be permitted only upon petition by the person who is the~~
11 ~~subject of the case. The Chief Superior Judge may permit special access to the~~
12 ~~index and the documents for research purposes pursuant to the rules for public~~
13 ~~access to court records.~~

14 ~~(4) The Court Administrator shall establish policies for implementing~~
15 ~~this subsection.~~

16 ~~(f) Upon request, the Victim's Compensation Program shall be provided~~
17 ~~with a copy, redacted of all information identifying the offender, of the~~
18 ~~affidavit for the sole purpose of verifying the expenses in a victim's~~
19 ~~compensation application submitted pursuant to section 5353 of this title.~~

1 ~~(g) The sealing of a criminal record shall not affect the authority of the~~
2 ~~Restitution Unit to enforce a restitution order in the same manner as a civil~~
3 ~~judgment pursuant to subdivision 5362(c)(2) of this title. [Repealed.]~~

4 § 7607a. PETITION TO UNSEAL A CRIMINAL HISTORY RECORD

5 (a) If a person who has had a criminal history record sealed pursuant to this
6 chapter is convicted of committing a subsequent criminal offense within
7 10 years of having the criminal history record sealed, upon request of the
8 respondent, the court shall unseal the criminal history record.

9 (b) A person who is the subject of criminal history records that have been
10 unsealed by the court pursuant to subsection (a) of this section may petition the
11 court to reseal the records after the time periods and conditions set forth in
12 section 7602 of this title, measured from the date the records were unsealed,
13 are met. If such conditions are met, the court shall grant the petition.

14 § 7608. VICTIMS

15 (a) At the time a respondent is requested to stipulate to sealing a criminal
16 history record or a petition is filed pursuant to this chapter section 7602 of this
17 title, whichever is earlier in time, the respondent shall give notice of the
18 petition to any victim of the offense who is known to the respondent. The
19 victim shall have the right to offer the respondent a statement prior to any
20 stipulation or to offer the court a statement. The disposition of the petition
21 shall not be unnecessarily delayed pending receipt of a victim's statement. The

1 respondent's inability to locate a victim after a reasonable effort has been made
2 shall not be a bar to granting a petition.

3 (b) As used in this section, "reasonable effort" means attempting to contact
4 the victim by first-class mail at the victim's last known address, ~~and~~ by
5 telephone at the victim's last known phone number, and by electronic mail at
6 the victim's last known electronic mail address.

7 § 7609. ~~EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN~~
8 ~~INDIVIDUAL 18-21 YEARS OF AGE~~

9 ~~(a) Procedure. Except as provided in subsection (b) of this section, the~~
10 ~~record of the criminal proceedings for an individual who was 18-21 years of~~
11 ~~age at the time the individual committed a qualifying crime shall be expunged~~
12 ~~within 30 days after the date on which the individual successfully completed~~
13 ~~the terms and conditions of the sentence for the conviction of the qualifying~~
14 ~~crime, absent a finding of good cause by the court. The court shall issue an~~
15 ~~order to expunge all records and files related to the arrest, citation,~~
16 ~~investigation, charge, adjudication of guilt, criminal proceedings, and~~
17 ~~probation related to the sentence. A copy of the order shall be sent to each~~
18 ~~agency, department, or official named in the order. Thereafter, the court, law~~
19 ~~enforcement officers, agencies, and departments shall reply to any request for~~
20 ~~information that no record exists with respect to such individual.~~
21 ~~Notwithstanding this subsection, the record shall not be expunged until~~

1 ~~restitution and surcharges have been paid in full, provided that payment of~~
2 ~~surcharges shall not be required if the surcharges have been waived by the~~
3 ~~court pursuant to section 7282 of this title.~~

4 ~~(b) Exceptions.~~

5 ~~(1) A criminal record that includes both qualifying and nonqualifying~~
6 ~~offenses shall not be eligible for expungement pursuant to this section.~~

7 ~~(2) The Vermont Crime Information Center shall retain a special index~~
8 ~~of sentences for sex offenses that require registration pursuant to chapter 167,~~
9 ~~subchapter 3 of this title. This index shall only list the name and date of birth~~
10 ~~of the subject of the expunged files and records, the offense for which the~~
11 ~~subject was convicted, and the docket number of the proceeding that was the~~
12 ~~subject of the expungement. The special index shall be confidential and shall~~
13 ~~be accessed only by the Director of the Vermont Crime Information Center and~~
14 ~~an individual designated for the purpose of providing information to the~~
15 ~~Department of Corrections in the preparation of a presentence investigation in~~
16 ~~accordance with 28 V.S.A. §§ 204 and 204a.~~

17 ~~(c) Petitions. An individual who was 18-21 years of age at the time the~~
18 ~~individual committed a qualifying crime may file a petition with the court~~
19 ~~requesting expungement of the criminal history record related to the qualifying~~
20 ~~crime after 30 days have elapsed since the individual completed the terms and~~
21 ~~conditions for the sentence for the qualifying crime. The court shall grant the~~

1 ~~petition and issue an order sealing or expunging the record if it finds that~~
2 ~~sealing or expunging the record serves the interests of justice. [Repealed.]~~

3 § 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

4 There is established the Criminal History Record Sealing Special Fund,
5 which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

6 Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to
7 seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be
8 deposited into and credited to this Fund. This Fund shall be available to the
9 Office of the Court Administrator, the Department of State's Attorneys and
10 Sheriffs, the Department of Motor Vehicles, and the Vermont Crime
11 Information Center to offset the administrative costs of sealing such records.
12 Balances in the Fund at the end of the fiscal year shall be carried forward and
13 remain in the Fund.

14 § 7611. UNAUTHORIZED DISCLOSURE

15 A State or municipal employee or contractor or any agent of the court,
16 including an attorney and an employee or contractor of the attorney, who
17 knowingly accesses or discloses sealed criminal history record information
18 without authorization shall be assessed a civil penalty of not more than
19 \$1,000.00. Each unauthorized disclosure shall constitute a separate civil
20 violation.

1 Sec. 2. 13 V.S.A. § 7041 is amended to read:

2 § 7041. DEFERRED SENTENCE

3 (a) Upon an adjudication of guilt and after the filing of a presentence
4 investigation report, the court may defer sentencing and place the respondent
5 on probation upon such terms and conditions as it may require if a written
6 agreement concerning the deferring of sentence is entered into between the
7 State's Attorney and the respondent and filed with the clerk of the court.

8 (b) Notwithstanding subsection (a) of this section, the court may defer
9 sentencing and place the respondent on probation without a written agreement
10 between the State's Attorney and the respondent if the following conditions are
11 met:

12 (1) [Repealed.]

13 (2) the crime for which the respondent is being sentenced is not a listed
14 crime as defined in subdivision 5301(7) of this title;

15 (3) the court orders a presentence investigation in accordance with the
16 procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to
17 waive the presentence investigation;

18 (4) the court permits the victim to submit a written or oral statement
19 concerning the consideration of deferment of sentence;

20 (5) the court reviews the presentence investigation and the victim's
21 impact statement with the parties; and

1 (6) the court determines that deferring sentence is in the interests of
2 justice.

3 (c) Notwithstanding subsections (a) and (b) of this section, the court may
4 not defer a sentence for a violation of section 3253a (aggravated sexual assault
5 of a child), section 2602 (lewd and lascivious conduct with a child unless the
6 victim and the defendant were within five years of age and the act was
7 consensual), 3252(c) (sexual assault of a child under 16 unless the victim and
8 the defendant were within five years of age and the act was consensual),
9 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual
10 assault), or 3253a (aggravated sexual assault of a child) of this title.

11 (d) Entry of deferment of sentence shall constitute an appealable judgment
12 for purposes of appeal in accordance with 12 V.S.A. § 2383 and V.R.A.P.
13 Rule 3. Except as otherwise provided, entry of deferment of sentence shall
14 constitute imposition of sentence solely for the purpose of sentence review in
15 accordance with section 7042 of this title. The court may impose sentence at
16 any time if the respondent violates the conditions of the deferred sentence
17 during the period of deferment.

18 (e) Upon violation of the terms of probation or of the deferred sentence
19 agreement, the court shall impose sentence. Upon fulfillment of the terms of
20 probation and of the deferred sentence agreement, the court shall strike the
21 adjudication of guilt and discharge the respondent. Except as provided in

1 subsection (h) of this section, the record of the criminal proceedings shall be
2 ~~expunged~~ sealed upon the discharge of the respondent from probation, absent a
3 finding of good cause by the court. The court shall issue an order to ~~expunge~~
4 seal all records and files related to the arrest, citation, investigation, charge,
5 adjudication of guilt, criminal proceedings, and probation related to the
6 deferred sentence. ~~Copies of the order shall be sent to each agency,~~
7 ~~department, or official named therein. Thereafter, the court, law enforcement~~
8 ~~officers, agencies, and departments shall reply to any request for information~~
9 ~~that no record exists with respect to such person upon inquiry in the matter.~~
10 The court shall send a copy of any order granting a petition to seal a criminal
11 history record to all of the parties and attorneys representing the parties,
12 including to the prosecuting agency that prosecuted the offense, the Vermont
13 Crime Information Center (VCIC), the arresting agency, and any other entity
14 the court determines possess criminal history records related to the petition.
15 Any person or entity that receives an order to seal a criminal history record or
16 that possesses criminal history records that have been sealed shall respond to
17 any inquiry regarding the sealed record shall be that “NO CRIMINAL
18 RECORD EXISTS.” Notwithstanding this subsection, the record shall not be
19 ~~expunged~~ sealed until restitution has been paid in full.

20 (f) A deferred sentence imposed under subsection (a) or (b) of this section
21 may include a restitution order issued pursuant to section 7043 of this title.

1 Nonpayment of restitution shall not constitute grounds for imposition of the
2 underlying sentence.

3 (g) [Repealed.]

4 (h) ~~The Vermont Crime Information Center~~ VCIC shall retain a special
5 index of deferred sentences for sex offenses that require registration pursuant
6 to subchapter 3 of chapter 167 of this title. This index shall only list the name
7 and date of birth of the subject of the ~~expunged~~ sealed files and records, the
8 offense for which the subject was convicted, and the docket number of the
9 proceeding that was the subject of the ~~expungement~~ sealing. The special index
10 shall be confidential and may be accessed only by the director of ~~the Vermont~~
11 ~~Crime Information Center~~ VCIC and a designated clerical staffperson for the
12 purpose of providing information to the Department of Corrections in the
13 preparation of a presentence investigation in accordance with 28 V.S.A.
14 §§ 204 and 204a.

15 Sec. 3. 33 V.S.A. § 5287 is amended to read:

16 § 5287. TERMINATION OR CONTINUANCE OF PROBATION

17 (a) A motion or stipulation may be filed at any time in the Family Division
18 requesting that the court terminate the youth's status as a youthful offender and
19 discharge ~~him or her~~ the youth from probation. The motion may be filed by
20 the State's Attorney, the youth, the Department, or the court on its own motion.

1 (b) In determining whether a youth has successfully completed the terms of
2 probation, the court shall consider:

3 (1) the degree to which the youth fulfilled the terms of the case plan and
4 the probation order;

5 (2) the youth's performance during treatment;

6 (3) reports of treatment personnel; and

7 (4) any other relevant facts associated with the youth's behavior.

8 (c) If the court finds that the youth has successfully completed the terms of
9 the probation order, it shall terminate youthful offender status, discharge the
10 youth from probation, and file a written order dismissing the Family Division
11 case. The Family Division shall provide notice of the dismissal to the Criminal
12 Division, which shall dismiss the criminal case.

13 (d) Upon discharge and dismissal under subsection (c) of this section, all
14 records relating to the case in the Criminal Division shall be ~~expunged~~ sealed,
15 and all records relating to the case in the Family Court shall be sealed pursuant
16 to section 5119 of this title.

17 (e) If the court denies the motion to discharge the youth from probation, the
18 court may extend or amend the probation order as it deems necessary.

19 (f) Upon the termination of the period of probation, the youth shall be
20 discharged from probation.

21 Sec. 4. 20 V.S.A. § 2058 is added to read:

1 § 2058. DISCLAIMER

2 (a) Definitions. As used in this section:

3 (1) “Center” means the Vermont Crime Information Center.

4 (2) “Criminal conviction record” has the same meaning as in section
5 2056a of this title.

6 (3) “Criminal history record” has the same meaning as in section 2056c
7 of this title.

8 (b) Disclaimer.

9 (1) The Center shall notify a requestor of a criminal history record or a
10 criminal conviction record that requests for such records based only on an
11 individual’s name may produce records for other individuals bearing the same
12 name.

13 (2) The Center shall notify a requestor that it is the requestor’s
14 responsibility to verify the identity of the individual whose information is
15 being sought, to use the information responsibly, and to use the information in
16 accordance with federal and State laws and regulations.

17 (c) Forms. The Center shall create disclaimer forms to accompany criminal
18 conviction and criminal history record requests in accordance with this section.

19 Sec. 5. 20 V.S.A. § 2063 is amended to read:

20 § 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY
21 RECORD CHECK FUND

1 (a) Except as otherwise provided for in this section, the cost of each check
2 for a criminal history record as defined in section 2056a of this title or a
3 criminal conviction record as defined in section 2056c of this title based on
4 name ~~and date of birth~~ shall be \$30.00. Out-of-state criminal history record
5 checks shall include any additional fees charged by the state from which the
6 record is requested.

7 (b) Requests made by criminal justice agencies for criminal justice
8 purposes or other purposes authorized by State or federal law shall be exempt
9 from all record check fees. The following types of requests shall be exempt
10 from the Vermont criminal record check fee:

11 (1) Requests made by any individual, organization, or governmental
12 body doing business in Vermont that has one or more individuals performing
13 services for it within this State and is a qualified entity that provides care or
14 services to children, elders, or persons with disabilities as defined in 34 U.S.C.
15 § 40104.

16 (2) Requests made by researchers approved by the Vermont Crime
17 Information Center to conduct research related to the administration of
18 criminal justice. A fee, however, may be charged by the Center, which shall
19 reflect the cost of generating the requested information.

1 (3) Requests made by individuals to review their own record at the
2 Vermont Crime Information Center; however, copies of the individual's record
3 are not exempt from the record check fee.

4 (4) Requests made by the Vermont State Housing Authority and other
5 public housing authorities pursuant to 24 V.S.A § 4010(c).

6 (5) Requests made by environmental enforcement officers employed by
7 the Agency of Natural Resources.

8 (c)(1) The Criminal History Record Check Fund is established and shall be
9 managed by the Commissioner of Public Safety in accordance with the
10 provisions of 32 V.S.A. chapter 7, subchapter 5. The fees paid each year under
11 this section shall be placed in the Fund and used for personal services and
12 operating costs related to the processing, maintenance, and dissemination of
13 criminal history records. The Commissioner of Finance and Management may
14 draw warrants for disbursements from this Fund in anticipation of receipts.

15 (2) At the end of each fiscal year, any undesignated surplus in the Fund
16 shall be transferred to the General Fund.

17 (d) The Department of Public Safety shall have the authority, with the
18 approval of the Secretary of Administration, to establish limited service
19 positions as are necessary to provide criminal record checks in a timely
20 manner, provided that there are sufficient funds in the Criminal History Record
21 Check Fund to pay for the costs of these positions.

1 Sec. 6. EFFECTIVE DATES

2 (a) This section and Secs. 4 and 5 shall take effect on July 1, 2024.

3 (b) Secs. 1–3 shall take effect on July 1, 2025.