

1 H.22

2 Introduced by Representatives Nuovo of Middlebury, Stevens of Shoreham,
3 Branagan of Georgia, Burke of Brattleboro, Conquest of
4 Newbury, Davis of Washington, Edwards of Brattleboro, Evans
5 of Essex, Fisher of Lincoln, Keenan of St. Albans City,
6 Kupersmith of South Burlington, Lanpher of Vergennes, Lenes
7 of Shelburne, Martin of Wolcott, Masland of Thetford, Mitchell
8 of Barnard, Mook of Bennington, Pearson of Burlington,
9 Ralston of Middlebury, Sharpe of Bristol, Stevens of Waterbury
10 and Webb of Shelburne

11 Referred to Committee on

12 Date:

13 Subject: Crimes and criminal procedures; expungement of misdemeanor
14 criminal conviction records

15 Statement of purpose: This bill proposes to provide a process for the
16 expungement of a misdemeanor criminal record of arrest, conviction, and
17 sentence for certain misdemeanor offenses. A person who complies with all
18 the conditions of his or her sentence and does not commit any subsequent
19 offenses for a specified period of time may petition the court for expungement.
20 The court may order expungement of the record if it finds that expungement is
21 consistent with the public welfare.

1 An act relating to expungement of misdemeanor criminal conviction records

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

3 Sec. 1. 13 V.S.A. chapter 230 is added to read:

4 CHAPTER 230. CRIMINAL RECORD EXPUNGEMENT

5 § 7600. PROCEDURE

6 (a) The record of a person's arrest, conviction, and sentence for a
7 misdemeanor may be expunged by the sentencing court in response to a
8 petition for expungement brought in accordance with this section if after a
9 hearing it is the opinion of the court that expungement is consistent with the
10 public welfare.

11 (b) A person whose arrest resulted in a finding of not guilty or whose case
12 was dismissed may petition for expungement of the arrest record at any time.

13 (c) A person convicted of a misdemeanor may petition for expungement of
14 the record of arrest, conviction, and sentence if both of the following criteria
15 are met:

16 (1) the petitioner successfully completed all the terms and conditions of
17 the sentence at least five years prior to the date of the petition;

18 (2) the petitioner has not been convicted of a felony punishable by more
19 than 15 years.

20 (d) If a petition for expungement is denied, no further petition shall be
21 brought for three years.

1 (e) A conviction for an offense committed under the laws of another state
2 which would not be considered a criminal offense under Vermont law shall not
3 count as a conviction for the purpose of obtaining an expungement under this
4 section.

5 (f) If prior to disposition by the court of a petition for expungement the
6 petitioner is charged with a criminal offense, the petition shall not be acted
7 upon until disposition of the new charge.

8 (g) When a petition is brought, the court shall request the criminal record
9 from the Vermont crime information center (VCIC). VCIC may charge a fee
10 of no more than \$100.00 for the cost of the record unless the court finds that
11 the petitioner is incapable of gainful employment. The court shall provide the
12 state's attorney's office with a copy of the petition for expungement and shall
13 permit the state's attorney to be heard regarding the interest of justice in regard
14 to the petition.

15 (h) Upon entry of an expungement order, the person whose record is
16 expunged shall be treated in all respects as if he or she had never been arrested,
17 convicted, or sentenced for such misdemeanor except upon conviction of any
18 crime committed after the order of expungement has been entered. The court
19 shall issue the person a certificate stating that such person's behavior after the
20 conviction has warranted the issuance of the order and that its effect is to annul

1 the record of arrest, conviction, and sentence. The court shall send a copy of
2 the order to VCIC and the arresting agency.

3 (i) In any application for employment, license, or civil right or privilege or
4 in an appearance as a witness in any proceeding or hearing, a person may be
5 questioned about a previous criminal record only in terms of arrests or
6 convictions that have not been expunged.

7 (j) Nothing in this section shall affect any right of the person whose record
8 has been expunged to appeal from the conviction or sentence or to rely on it in
9 bar of any subsequent proceedings for the same offense.

10 Sec. 2. EFFECTIVE DATE

11 This act shall take effect upon passage.