

1 H.396

2 Introduced by Representative Cheney of Norwich

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; expungement of criminal records

6 Statement of purpose of bill as introduced: This bill proposes to make a  
7 number of changes to the procedures involving the expungement of criminal  
8 records.

9 An act relating to expungement of criminal records

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

11 Sec. 1. FINDINGS

12 The General Assembly finds that:

13 (1) An arrest, even without a conviction, may hinder the ability of a  
14 person accused of a crime to obtain employment, housing, and credit.

15 (2) The circulation and use of criminal records is steadily increasing.

16 (3) When a person pleads guilty and completes court diversion, criminal  
17 records are automatically sealed under 3 V.S.A. § 164.

18 (4) Government has an obligation to ensure reasonable fairness and  
19 opportunity for people who are arrested and not convicted.



1           (1) No criminal charge is filed by the ~~state and the statute of limitations~~  
2 ~~has expired~~ State.

3           (2) The court does not make a determination of probable cause at the  
4 time of arraignment or dismisses the charge at the time of arraignment ~~and the~~  
5 ~~statute of limitations has expired~~.

6           (3) The charge is dismissed ~~before trial~~:

7                 (A) ~~without prejudice and the statute of limitations has expired; or~~

8                 (B) ~~with prejudice~~.

9           (4) ~~The defendant and the respondent stipulate that the court may grant~~  
10 ~~the petition to expunge and seal the record~~.

11           (b) ~~The state's attorney or attorney general shall be the respondent in the~~  
12 ~~matter. The petitioner and the respondent shall be the only parties in the matter.~~

13 [Repealed.]

14           (c) The court shall grant the petition and order that the criminal history  
15 record be expunged pursuant to section 7606 of this title if it finds that  
16 expungement of the criminal history record serves the interest of justice.

17           (d) The court shall ~~grant the petition and order that all or part of the~~, unless  
18 upon motion the state's attorney or Attorney General demonstrates that the  
19 interests of justice require otherwise, automatically seal criminal history ~~record~~  
20 ~~be sealed~~ records pursuant to section 7607 of this title if one of the following  
21 conditions is met:

1           (1) ~~The court finds that sealing the criminal history record better serves~~  
2 ~~the interest of justice than expungement~~ No criminal charge is filed by the  
3 State within two years.

4           (2) ~~The person committed the qualifying crime after reaching 19 years~~  
5 ~~of age~~ At the time of arraignment the court dismisses the charge or does not  
6 make a determination of probable cause.

7           (3) The charge is dismissed.

8       Sec. 4. EFFECTIVE DATE

9           This act shall take effect on passage.