

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill No.  
3 399 entitled “An act relating to the Department for Children and Families’  
4 Registry Review Unit” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 33 V.S.A. § 4916a is amended to read:

8 § 4916a. CHALLENGING PLACEMENT ON THE REGISTRY

9 \* \* \*

10 (c)(1) A person alleged to have abused or neglected a child may seek an  
11 administrative review of the Department’s intention to place the person’s name  
12 on the Registry by notifying the Department within 14 days of the date the  
13 Department mailed notice of the right to review in accordance with subsections  
14 (a) and (b) of this section. The Commissioner may grant an extension past the  
15 14-day period for good cause, not to exceed 28 days after the Department has  
16 mailed notice of the right to review.

17 (2) The administrative review may be stayed upon request of the person  
18 alleged to have committed abuse or neglect if there is a related case pending in  
19 the Criminal or Family Division of the Superior Court which arose out of the  
20 same incident of abuse or neglect for which the person was substantiated.  
21 During the period the review is stayed, the person’s name shall be placed on

1 the Registry. Upon resolution of the Superior Court criminal or family case,  
2 the person may exercise his or her right to review under this section by  
3 notifying the Department within 30 days of the resolution of the court case. If  
4 the person fails to notify the Department within 30 days, the Department's  
5 decision shall become final and no further review under this subsection is  
6 required.

7 (d) The Department shall hold an administrative review conference within  
8 35 days of receipt of the request for review. At least 10 days prior to the  
9 administrative review conference, the Department shall provide to the person  
10 requesting review a copy of the redacted investigation file, notice of time and  
11 place of the conference, and conference procedures, including information that  
12 may be submitted and mechanisms for providing ~~testimony~~ information. There  
13 shall be no subpoena power to compel witnesses to attend a Registry review  
14 conference. The Department shall also provide to the person those redacted  
15 investigation files that relate to prior investigations that the Department has  
16 relied upon to make its substantiation determination in the case in which a  
17 review has been requested.

18 \* \* \*

1 Sec. 2. 33 V.S.A. § 4916c is amended to read:

2 § 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

3 (a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has  
4 been placed on the Registry prior to July 1, 2009 and has been listed on the  
5 Registry for at least three years may file a written request with the  
6 Commissioner, seeking a review for the purpose of expunging an individual  
7 Registry record. A person whose name has been placed on the Registry on or  
8 after July 1, 2009 and has been listed on the Registry for at least seven years  
9 may file a written request with the Commissioner seeking a review for the  
10 purpose of expunging an individual Registry record. The Commissioner shall  
11 grant a review upon request.

12 (2) A person who is required to register as a sex offender on the State's  
13 Sex Offender Registry shall not be eligible to petition for expungement of his  
14 or her Registry record until the person is no longer subject to Sex Offender  
15 Registry requirements.

16 (b)(1) The person shall have the burden of proving that a reasonable person  
17 would believe that he or she no longer presents a risk to the safety or  
18 well-being of children. ~~Factors to be considered by the Commissioner shall~~  
19 ~~include:~~

20 (2) The Commissioner shall consider the following factors in making his  
21 or her determination:

1           ~~(1)~~(A) the nature of the substantiation that resulted in the person’s  
2 name being placed on the Registry;

3           ~~(2)~~(B) the number of substantiations, ~~if more than one~~;

4           ~~(3)~~(C) the amount of time that has elapsed since the substantiation;

5           ~~(4)~~(D) the circumstances of the substantiation that would indicate  
6 whether a similar incident would be likely to occur;

7           ~~(5)~~(E) any activities that would reflect upon the person’s changed  
8 behavior or circumstances, such as therapy, employment, or education; ~~and~~

9           ~~(6)~~(F) references that attest to the person’s good moral character; and

10           (G) any other information that the Commissioner deems relevant.

11           (3) The Commissioner may deny a petition for expungement based  
12 solely on subdivision (2)(A) or (2)(B) of this subsection.

13   \* \* \*

14           Sec. 3. EFFECTIVE DATE

15           This act shall take effect on passage.

16

17           (Committee vote: \_\_\_\_\_)

18

\_\_\_\_\_

19

Representative \_\_\_\_\_

20

FOR THE COMMITTEE