
To: House Judiciary Committee
From: Nessabeth Rooks, VLS 2L
Date: March 25, 2015
Re: S.115 Expungement

S. 115, as passed, broadens the population of ex-offenders who may seek expungement of their criminal history records. This expansion is expressed in two distinct ways. First, S. 115 slightly widens the definition of “qualifying crime” to include burglary so long as the offense was not into an occupied dwelling. Individuals convicted of a qualifying crime may seek expungement pursuant to existing law under the ten-twenty year framework.

Next, S. 115 allows expungement for individuals whose conviction was for conduct that would no longer be classified as criminal so long as at least one year has passed. For example, this would include former crimes such as adultery, blasphemy, Sabbath breaking, vagrancy and offenses that were criminal but are now resolved as a violation.

Social science research indicates that many offenders age out of crime. This means that as an individual gets older, they become less and less likely to commit further offenses. While S. 115 provides for earlier expungement than the current statutory language, this is for a small population of ex-offenders. Furthermore, it covers activities that are essentially no longer crimes. The majority of individuals will still have to wait at least ten years to clear their name.

Ten years is a long time to wait to seek a clean record. This becomes wasted time that is likely filled with menial low paying jobs, unemployment, and poverty. The individual’s only incentive is actually a disincentive; if they commit another crime, they have to wait even longer. The interests of justice may be better served by providing a mechanism for younger individuals to decrease their waiting time.

An incentive program that rewards pro-social activities with a clean record sooner rather than later would serve all of our interests. The program should be limited to those whose offense occurred when they were under 25 years old. If they engage in voluntary community service, as directed or verified by a Community Justice Centers, they can cut their wait time in half.

An incentive program that reconnects individuals and their community is beneficial to everyone. Vermont is often a leader in bringing about long overdue social reforms. This program could be the next step to social justice in Vermont.