

1 S.234

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Judiciary; juvenile delinquency; youthful offender

6 Statement of purpose of bill as introduced: This bill proposes to allow
7 automatic expungement of criminal history records under certain
8 circumstances for an individual 18-21 years of age and directs the Department
9 for Children and Families to review current screening and assessment tools and
10 diversion practices and report to the General Assembly on proposed changes.

11 An act relating to juvenile justice

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

13 Sec. 1. 13 V.S.A. § 7609 is added to read:

14 § 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
15 INDIVIDUAL 18-21 YEARS OF AGE

16 (a) As used in this section, “qualifying crime” means any misdemeanor
17 offense that is not a listed crime as defined in subdivision 5301(7) of this title
18 and that is not an offense involving sexual exploitation of children in violation
19 of chapter 64 of this title.

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

14 (c) The Vermont Crime Information Center shall retain a special index of
15 sentences for sex offenses that require registration pursuant to chapter 167,
16 subchapter 3 of this title. This index shall only list the name and date of birth
17 of the subject of the expunged files and records, the offense for which the
18 subject was convicted, and the docket number of the proceeding that was the
19 subject of the expungement. The special index shall be confidential and shall
20 be accessed only by the director of the Vermont Crime Information Center and
21 an individual designated for the purpose of providing information to the

1 Department of Corrections in the preparation of a presentence investigation in
2 accordance with 28 V.S.A. §§ 204 and 204a.

3 Sec. 2. 33 V.S.A. § 5203 is amended to read:

4 § 5203. TRANSFER FROM OTHER COURTS

5 (a) If it appears to a Criminal Division of the Superior Court that the
6 defendant was under 18 years of age at the time the offense charged was
7 alleged to have been committed and the offense charged is a:

8 (1) misdemeanor, that court shall forthwith transfer the case to the
9 Family Division of the Superior Court under the authority of this chapter; or

10 (2) felony offense not specified in subsection 5204(a) of this title, that
11 court shall forthwith transfer the proceeding to the Family Division of the
12 Superior Court under the authority of this chapter, and the minor shall then be
13 considered to be subject to this chapter as a child charged with a
14 delinquent act.

15 (b) If it appears to a Criminal Division of the Superior Court that the
16 ~~defendant was under 18 years of age at the time a felony offense not specified~~
17 ~~in subsection 5204(a) of this title was alleged to have been committed, that~~
18 ~~court shall forthwith transfer the proceeding to the Family Division of the~~
19 ~~Superior Court under the authority of this chapter, and the minor shall~~
20 ~~thereupon be considered to be subject to this chapter as a child charged with a~~
21 ~~delinquent act~~ had attained 14 years of age but not 16 years of age at the time

1 an offense specified in subsection 5204(a) of this title was alleged to have been
2 committed, that court may forthwith transfer the proceeding to the Family
3 Division of the Superior Court under the authority of this chapter, and the
4 minor shall then be considered to be subject to this chapter as a child charged
5 with a delinquent act.

6 * * *

7 Sec. 3. DEPARTMENT FOR CHILDREN AND FAMILIES; JUVENILE
8 DELINQUENCY AND YOUTHFUL OFFENDER PROCEEDINGS;
9 SCREENING AND ASSESSMENT TOOLS; DIVERSION; REPORT

10 The Department for Children and Families, in consultation with the
11 Department of State's Attorneys and Sheriffs and the Office of the Defender
12 General, shall conduct a review of current policies and practices regarding
13 diversion and the screening and assessment tools used during proceedings
14 under 33 V.S.A. chapters 52 and 52a, including the Youth Assessment and
15 Screening Instrument (YASI). On or before January 1, 2019, the Department
16 shall report to the Senate and House Committees on Judiciary with an analysis
17 of how current screening and assessment tools and diversion policies and
18 practices are working and any recommendations for legislative changes.

19 Sec. 4. EFFECTIVE DATE

20 This act shall take effect on passage.