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H.171

Representative LaLonde of South Burlington moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 8005 is amended to read:

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT IN PRETRIAL
PROCEEDING

* * *

(b) Before the ~~Court~~ court accepts a plea of guilty or nolo contendere from an individual, the ~~Court~~ court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

1 (C) that there may be ways to obtain relief from collateral
2 consequences;

3 (D) that the conviction may be eligible for expungement or sealing
4 pursuant to section 7602 of this title;

5 (E) contact information for government or nonprofit agencies,
6 groups, or organizations, if any, offering assistance to individuals seeking
7 relief from collateral consequences; and

8 ~~(E)~~(F) that conviction of a crime in this State does not prohibit an
9 individual from voting in this State.

10 Sec. 2. 13 V.S.A. § 8006 is amended to read:

11 § 8006. NOTICE OF COLLATERAL CONSEQUENCES AND

12 ELIGIBILITY FOR EXPUNGEMENT UPON RELEASE

13 (a) Prior to the completion of a sentence, an individual in the custody of the
14 Commissioner of Corrections shall be given written notice of the following:

15 (1) that collateral consequences may apply because of the conviction;

16 (2) the Internet address of the collection of laws published under this
17 chapter;

18 (3) that there may be ways to obtain relief from collateral consequences;

19 (4) that the conviction may be eligible for expungement or sealing
20 pursuant to section 7602 of this title;

1 (5) contact information for government or nonprofit agencies, groups, or
2 organizations, if any, offering assistance to individuals seeking relief from
3 collateral consequences; and

4 ~~(5)~~(6) that conviction of a crime in this State does not prohibit an
5 individual from voting in this State.

6 (b) For persons sentenced to incarceration, the notice shall be provided not
7 more than 30 days and at least 10 days before completion of the sentence. If
8 the sentence is for a term of less than 30 days then notice shall be provided
9 when the sentence is completed.

10 (c) For persons receiving a sentence involving community supervision,
11 such as probation, furlough, home confinement, conditional reentry, or parole,
12 the notice shall be provided by the Department of Corrections in keeping with
13 its mission of ensuring rehabilitation and public safety.

14 (d) For persons receiving a penalty involving a fine only, the court shall, at
15 the time of the judgment, provide either oral or written notice that the
16 conviction may be eligible for expungement or sealing pursuant to section
17 7602 of this title.

18 Sec. 3. 13 V.S.A. § 7601(4) is amended to read:

19 (4) “Qualifying crime” means:

20 (A) a misdemeanor offense which is not a listed crime as defined in
21 subdivision 5301(7) of this title, an offense involving sexual exploitation of

1 children in violation of chapter 64 of this title, an offense involving violation
2 of a protection order in violation of section 1030 of this title, a prohibited act
3 as defined in section 2632 of this title, or a predicate offense;

4 (B) a violation of subsection 3701(a) of this title related to criminal
5 mischief;

6 (C) a violation of section 2501 of this title related to grand larceny; or

7 (D) a violation of section 1201 of this title related to burglary,
8 excluding any burglary into an occupied dwelling, as defined in subdivision
9 1201(b)(2) of this title; or

10 (E) a violation of 18 V.S.A. § 4223 related to fraud or deceit.

11 Sec. 4. 13 V.S.A. § 7602 is amended to read:

12 § 7602. EXPUNGEMENT AND SEALING OF RECORD,

13 POSTCONVICTION; PROCEDURE

14 * * *

15 (b)(1) ~~The Court~~ Unless the court finds that expungement would not be in
16 the interest of justice, the court shall grant the petition and order that the
17 criminal history record be expunged pursuant to section 7606 of this title if the
18 following conditions are met:

19 (A) At least ~~40~~ three years have elapsed since the date on which the
20 person successfully completed the terms and conditions of the sentence for the
21 conviction, or if the person has successfully completed the terms and

1 conditions of an indeterminate term of probation that commenced at least 10
2 three years previously.

3 (B) The person has not been convicted of a crime arising out of a new
4 incident or occurrence since the person was convicted for the qualifying crime.

5 (C) Any restitution ordered by the ~~Court~~ court has been paid in full.

6 ~~(D) The Court finds that expungement of the criminal history record~~
7 ~~serves the interest of justice.~~

8 (2) The ~~Court~~ court shall grant the petition and order that all or part of
9 the criminal history record be sealed pursuant to section 7607 of this title if the
10 conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and
11 the ~~Court~~ court finds that:

12 (A) sealing the criminal history record better serves the interest of
13 justice than expungement; and

14 (B) the person committed the qualifying crime after reaching
15 19 years of age.

16 (c)(1) ~~The Court~~ Unless the court finds that expungement would not be in
17 the interest of justice, the court shall grant the petition and order that the
18 criminal history record be expunged pursuant to section 7606 of this title if the
19 following conditions are met:

1 (A) At least ~~20~~ five years have elapsed since the date on which the
2 person successfully completed the terms and conditions of the sentence for the
3 conviction.

4 (B) The person has not been convicted of a felony arising out of a
5 new incident or occurrence since the person was convicted of the qualifying
6 crime.

7 (C) The person has not been convicted of a misdemeanor during the
8 past ~~15~~ three years.

9 (D) Any restitution ordered by the ~~Court~~ court for any crime of which
10 the person has been convicted has been paid in full.

11 ~~(E) After considering the particular nature of any subsequent offense,~~
12 ~~the Court finds that expungement of the criminal history record for the~~
13 ~~qualifying crime serves the interest of justice.~~

14 (2) The ~~Court~~ court shall grant the petition and order that all or part of
15 the criminal history record be sealed pursuant to section 7607 of this title if the
16 conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met
17 and the ~~Court~~ court finds that:

18 (A) sealing the criminal history record better serves the interest of
19 justice than expungement; and

20 (B) the person committed the qualifying crime after reaching
21 19 years of age.

1 (d) ~~The Court shall grant the petition and order that the criminal history~~
2 ~~record be expunged in accordance with section 7606 of this title if the~~
3 ~~following conditions are met:~~

4 (1) ~~The petitioner committed the qualifying crime or crimes prior to~~
5 ~~reaching 25 years of age.~~

6 (2) ~~At least five years have elapsed since the date on which the person~~
7 ~~successfully completed the terms and conditions of the sentence for the~~
8 ~~conviction, or if the person has successfully completed the terms and~~
9 ~~conditions of an indeterminate term of probation that commenced at least five~~
10 ~~years previously.~~

11 (3) ~~The person has not been convicted of a crime arising out of a new~~
12 ~~incident or occurrence since the person was convicted of the qualifying crime.~~

13 (4) ~~The person successfully completed a term of regular employment or~~
14 ~~public service, independent of any service ordered as a part of the petitioner's~~
15 ~~sentence for the conviction, and as approved by the Community Justice~~
16 ~~Network of Vermont, which may include:~~

17 (A) ~~community service hours completed without compensation,~~
18 ~~reparation of harm to the victim, or education regarding ways not to reoffend,~~
19 ~~or a combination of the three;~~

20 (B) ~~at least one year of service in the U.S. Armed Forces, followed~~
21 ~~by an honorable discharge or continued service in good standing;~~

1 Sec. 5. 13 V.S.A. § 7605 is amended to read:

2 § 7605. DENIAL OF PETITION

3 If a petition for expungement is denied by the ~~Court~~ court pursuant to this
4 chapter, no further petition shall be brought for at least ~~five years~~ one year,
5 unless a shorter duration is authorized by the court.

6 Sec. 6. JUDICIARY; NEXT GENERATION CASE MANAGEMENT

7 SYSTEM; AUTOMATION OF EXPUNGEMENT PROCESS

8 On or before January 15, 2018, the Court Administrator shall report to the
9 House and Senate Committees on Judiciary on the feasibility of automating the
10 expungement and sealing petition process through the Next Generation Case
11 Management System or any other available method.

12 Sec. 7. OFFICE OF THE ATTORNEY GENERAL; PUBLIC NOTICE OF
13 EXPUNGEMENT OPPORTUNITY

14 The Office of the Attorney General shall provide public education and
15 awareness regarding the availability of the expungement petition process to
16 inform Vermonters of the opportunity to expunge or seal the record of a
17 criminal conviction.

18 Sec. 8. LEGISLATIVE INTENT

19 Because the expungement of criminal history records serves the interests of
20 rehabilitative justice, the General Assembly expresses its intent to continue

- 1 examining the issue, and to consider whether to expand the range of offenses
- 2 for which a person’s criminal history records can be expunged.
- 3 Sec. 9. EFFECTIVE DATE
- 4 This act shall take effect on passage.