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H.171

Introduced by Representatives Grad of Moretown, Burditt of West Rutland,
Conquest of Newbury, LaLonde of South Burlington, and
Morris of Bennington

Referred to Committee on

Date:

Subject: Criminal procedure; expungement

Statement of purpose of bill as introduced: This bill proposes to allow people
convicted of some nonviolent felony crimes to petition for expungement;
shortens the amount of time a person is required to wait to seek expungement
after successful completion of the person's sentence; and shortens the amount
of time a person must wait to petition again after an expungement petition is
denied.

An act relating to expungement

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

Sec. 1. 13 V.S.A. § 7601(4) is amended to read:

(4) "Qualifying crime" means:

(A) a misdemeanor offense which is not a listed crime as defined in
subdivision 5301(7) of this title, an offense involving sexual exploitation of
children in violation of chapter 64 of this title, an offense involving violation

1 of a protection order in violation of section 1030 of this title, a prohibited act
2 as defined in section 2632 of this title, or a predicate offense;

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

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

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

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

10 Sec. 2. 13 V.S.A. § 7602 is amended to read:

11 § 7602. EXPUNGEMENT AND SEALING OF RECORD,

12 POSTCONVICTION; PROCEDURE

13 * * *

14 (b)(1) The ~~Court~~ court shall grant the petition and order that the criminal
15 history record be expunged pursuant to section 7606 of this title if the
16 following conditions are met:

17 (A) At least ~~40~~ five years have elapsed since the date on which the
18 person successfully completed the terms and conditions of the sentence for the
19 conviction, or if the person has successfully completed the terms and
20 conditions of an indeterminate term of probation that commenced at least ~~40~~
21 five years previously.

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

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

4 (D) The ~~Court~~ court finds that expungement of the criminal history
5 record serves the interest of justice.

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

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

12 (B) the person committed the qualifying crime after reaching 19
13 years of age.

14 (c)(1) The ~~Court~~ court shall grant the petition and order that the criminal
15 history record be expunged pursuant to section 7606 of this title if the
16 following conditions are met:

17 (A) At least ~~20~~ 10 years have elapsed since the date on which the
18 person successfully completed the terms and conditions of the sentence for the
19 conviction.

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

4 (C) The person has not been convicted of a misdemeanor during the
5 past ~~15~~ seven years.

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

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

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

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

17 (B) the person committed the qualifying crime after reaching
18 19 years of age.

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

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

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

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

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

14 (A) community service hours completed without compensation,
15 reparation of harm to the victim, or education regarding ways not to reoffend,
16 or a combination of the three;

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

19 (C) at least one year of service in AmeriCorps or another local, state,
20 national, or international service program, followed by successful completion
21 of the program or continued service in good standing; or

1 (D) at least one year of regular employment.

2 (5) Any restitution ordered by the ~~Court~~ court for any crime of which
3 the person has been convicted has been paid in full.

4 (6) The ~~Court~~ court finds that expungement of the criminal history
5 record serves the interest of justice.

6 (e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the
7 ~~Court~~ court shall grant the petition and order that the criminal history record be
8 expunged in accordance with section 7606 of this title if the following
9 conditions are met:

10 (1) ~~At least one year has elapsed since the completion of any sentence or~~
11 ~~supervision for the offense, whichever is later.~~

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

13 (3)(2) The ~~Court~~ court finds that expungement of the criminal history
14 record serves the interest of justice.

15 * * *

16 Sec. 3. 13 V.S.A. § 7605 is amended to read:

17 § 7605. DENIAL OF PETITION

18 If a petition for expungement is denied by the ~~Court~~ court pursuant to this
19 chapter, no further petition shall be brought for at least ~~five years~~ one year.

20 Sec. 4. EFFECTIVE DATE

21 This act shall take effect on July 1, 2017.