

Amendment

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(Draft No. 1.1 – H.171)
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1
2 Representative Browning of Arlington moves that the bill be amended by
3 striking out Secs. 3 and 4 in their entirety and inserting in lieu thereof the
4 following:

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

6 (4)(A) “Qualifying crime” means:

7 (A)(i) a misdemeanor offense which is not a listed crime as defined
8 in subdivision 5301(7) of this title, an offense involving sexual exploitation of
9 children in violation of chapter 64 of this title, an offense involving violation
10 of a protection order in violation of section 1030 of this title, a prohibited act
11 as defined in section 2632 of this title, or a predicate offense; or

12 (B)(ii) a violation of subsection 3701(a) of this title related to
13 criminal mischief;

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

15 (D) a violation of section 1201 of this title related to burglary,
16 excluding any burglary into an occupied dwelling, as defined in subdivision
17 1201(b)(2) of this title.

18 (B) For purposes of sealing only, a qualifying crime may also include
19 a violation of section 2501 of this title related to grand larceny, a violation of
20 section 1201 of this title related to burglary, excluding any burglary into an

1 occupied dwelling as defined in subdivision 1201(b)(2) of this title, or a
2 violation of 18 V.S.A. § 4223 related to fraud or deceit.

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

4 § 7602. EXPUNGEMENT AND SEALING OF RECORD,
5 POSTCONVICTION; PROCEDURE

6 * * *

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

10 (A) At least ~~10~~ five years have elapsed since the date on which the
11 person successfully completed the terms and conditions of the sentence for the
12 conviction, or if the person has successfully completed the terms and
13 conditions of an indeterminate term of probation that commenced at least ~~10~~
14 three years previously.

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

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

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

20 (2) The ~~Court~~ court shall grant the petition and order that all or part of
21 the criminal history record be sealed pursuant to section 7607 of this title if the

1 conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and
2 the ~~Court~~ court finds that:

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

5 (B) the person committed the qualifying crime after reaching
6 19 years of age.

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

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

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

16 (C) The person has not been convicted of a misdemeanor during the
17 past ~~45~~ three years.

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

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

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

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

10 (B) the person committed the qualifying crime after reaching
11 19 years of age.

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

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

17 ~~(2) At least five years have elapsed since the date on which the person~~
18 ~~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 five~~
21 ~~years previously.~~

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

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

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

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

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

15 ~~(D) at least one year of regular employment.~~

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

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

20 ~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, the~~
21 ~~Court court shall grant the petition and order that the criminal history record be~~

1 expunged in accordance with section 7606 of this title if the following
2 conditions are met:

3 (1) ~~At least one year has elapsed since the completion of~~ The petitioner
4 has completed any sentence or supervision for the offense, ~~whichever is later.~~

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

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

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