

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 173
3 entitled “An act relating to sealing criminal history records when there is no
4 conviction” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. 13 V.S.A. § 7602 is amended to read:

9 § 7602. EXPUNGEMENT AND SEALING OF RECORD,
10 POSTCONVICTION; PROCEDURE

11 * * *

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

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

18 (B) The person has not been convicted of a felony arising out of a
19 new incident or occurrence ~~since the person was convicted of the qualifying~~
20 ~~crime~~ in the last 7 years.

1 (C) The person has not been convicted of a misdemeanor during the
2 past five years.

3 (D) Any restitution ordered by the court for any crime of which the
4 person has been convicted has been paid in full.

5 (E) After considering the particular nature of any subsequent offense,
6 the court finds that expungement of the criminal history record for the
7 qualifying crime serves the interest of justice.

8 * * *

9 Sec. 2. 13 V.S.A. § 7603 is amended to read:

10 § 7603. EXPUNGEMENT AND SEALING OF RECORD, NO
11 CONVICTION; PROCEDURE

12 (a) ~~A person who was cited or arrested for a qualifying crime or qualifying~~
13 ~~crimes arising out of the same incident or occurrence may file a petition with~~
14 ~~the court requesting expungement or~~ Unless either party objects in the interest
15 of justice, the court shall issue an order sealing of the criminal history record
16 related to the citation or arrest ~~if one of the following conditions is met of a~~
17 person:

18 (1) ~~No criminal charge is filed by the State and the statute of limitations~~
19 ~~has expired.~~

20 (2) ~~The~~ twelve months after the dismissal if:

1 ~~(A) the~~ court does not make a determination of probable cause at the
2 time of arraignment or dismisses the charge at the time of arraignment ~~and the~~
3 ~~statute of limitations has expired;~~ or

4 ~~(3)(B) The~~ the charge is dismissed before trial:

5 ~~(A) without prejudice and the statute of limitations has expired; or~~

6 ~~(B) with prejudice.~~

7 ~~(4)(2) The~~ at any time if the prosecuting attorney and the defendant and
8 ~~the respondent~~ stipulate that the court may grant the petition to ~~expunge and~~
9 seal the record.

10 (b) ~~The State's Attorney or Attorney General shall be the respondent in the~~
11 ~~matter. If a party objects to sealing or expunging a record pursuant to this~~
12 ~~section, the court shall schedule a hearing to determine if sealing or expunging~~
13 ~~the record serves the interest of justice. The~~ petitioner defendant and the
14 ~~respondent~~ prosecuting attorney shall be the only parties in the matter.

15 (c) ~~The court shall grant the petition and order that the criminal history~~
16 ~~record be expunged pursuant to section 7606 of this title if it finds that~~
17 ~~expungement of the criminal history record serves the interest of justice.~~

18 [Repealed.]

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

1 ~~(1) The court finds that sealing the criminal history record better serves~~
2 ~~the interest of justice than expungement.~~

3 ~~(2) The person committed the qualifying crime after reaching 19 years~~
4 ~~of age. [Repealed.]~~

5 (e) Unless either party objects in the interest of justice, the court shall issue
6 an order expunging a criminal history record related to the citation or arrest of
7 a person:

8 (1) not more than 45 days after:

9 (A) acquittal if the defendant is acquitted of the charges; or

10 (B) dismissal if the charge is dismissed with prejudice before trial;

11 (2) at any time if the prosecuting attorney and the defendant stipulate
12 that the court may grant the petition to expunge the record.

13 (f) Unless either party objects in the interest of justice, the court shall issue
14 an order to expunge a record sealed pursuant to subsection (a) or (g) of this
15 section after the statute of limitations has expired.

16 (g) A person may file a petition with the court requesting sealing or
17 expungement of a criminal history record related to the citation or arrest of the
18 person at any time. The court shall grant the petition and issue an order sealing
19 or expunging the record if it finds that sealing or expunging the record serves
20 the interest of justice.

1 ~~serve the interest of justice~~. The Administrative Judge may permit special
2 access to the index and the documents for research purposes pursuant to the
3 rules for public access to court records.

4 (4) All other court documents in a case that are subject to an
5 expungement order shall be destroyed.

6 (5) The Court Administrator shall establish policies for implementing
7 this subsection.

8 (e) Upon receiving an inquiry from any person regarding an expunged
9 record, an entity shall respond that “NO RECORD EXISTS.”

10 Sec. 4. DEPARTMENT OF STATE’S ATTORNEYS AND SHERIFFS;
11 EXPUNGEMENT-ELIGIBLE CRIMES; AUTOMATIC
12 EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY
13 RECORDS; REPORT

14 The Department of State’s Attorneys and Sheriffs, in consultation with the
15 Office of the Court Administrator, the Vermont Crime Information Center, the
16 Office of the Attorney General, the Office of the Defender General, the Center
17 for Crime Victim Services, and Vermont Legal Aid, shall:

18 (1) consider:

19 (A) expanding the list of qualifying crimes eligible for expungement
20 pursuant to 13 V.S.A. § 7601 to include any nonviolent drug-related offenses;

1 (B) the implications of such an expansion on public health, economic
2 development, and law enforcement efforts in the State; and

3 (C) the viability of automating the process of expunging and sealing
4 criminal history records;

5 (2) seek input from the Vermont Governor’s Opioid Coordination
6 Council; and

7 (3) on or before November 1, 2018, report to the Joint Legislative
8 Justice Oversight Committee on the findings of the group, including any
9 recommendations on specific crimes to add to the definition of qualifying
10 crimes pursuant to 13 V.S.A. § 7601.

11 Sec. 5. EFFECTIVE DATE

12 This act shall take effect on July 1, 2018.

13

14

15

16

17

18

19 (Committee vote: _____)

1
2
3

Representative _____

FOR THE COMMITTEE