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TO: Senator Dick Sears, Chair of the Senate Judiciary, and Senate Judiciary  
Committee Members  
FROM: Mairead C. O'Reilly, Esq.  
RE: Senate Bill 173  
DATE: February 13, 2018

Dear Senator Sears and Committee Members:

Thank you for considering Vermont Legal Aid's proposals on S. 173, which aim to amend several provisions in Vermont's sealing and expungement law. We appreciate your demonstrated commitment to ensuring that fewer Vermonters are harmed by the collateral consequences of criminal records.

Yesterday, Vermont Legal Aid (VLA) had the opportunity to meet with the Court Administrator's Office, the Department of State's Attorneys and Sheriffs, and the Attorney General's Office, to discuss concerns about the proposed record sealing timelines under 13 V.S.A. § 7603, which the Committee reviewed last week. The following language is VLA's revised proposal on 13 V.S.A. §7603. We think that it balances our goal of limiting the harmful collateral consequences that many of our clients with criminal records experience, with both the court's need to ensure that any new sealing and expungement processes are administrable and with law enforcement's goal to maintain public safety.

## **13 V.S.A. § 7603: Expungement and Sealing for Non-Convictions**

- (1) **Cases Dismissed Without Prejudice/No Finding of Probable Cause:** Twelve months after dismissal without prejudice, or dismissal due to lack of probable cause, the court will order the criminal history records sealed, unless either party objects.
  - o The court will expunge sealed records upon expiration of the statute of limitations.
  
- (2) **Cases Dismissed With Prejudice/Acquitted:** Immediately (not more than 45 days after) dismissal with prejudice or acquittal, the court will order the criminal history record expunged, unless either party objects.

- (3) **Objections to Sealing/Expungement:** When either party objects to sealing a record, the court shall review the objection and shall schedule a hearing, to determine whether sealing or expunging the criminal history record is in the interest of justice. After the hearing, the court shall issue an order either granting the remedy or denying it, based on the interest of justice.
- (4) **Petitions:** At any time, even after an objection is granted by default, a defendant may petition the court for an expungement of criminal history record. The court shall grant the petition and expunge the record, if it finds that it is in the interest of justice.