

1 S.17

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Court procedure; criminal history records; expungement

6 Statement of purpose of bill as introduced: This bill proposes to specify that  
7 the filing fee to seal or expunge a criminal history record applies to each  
8 petition, which may request multiple instances of sealing or expungement for a  
9 single individual, and to waive the filing fee if the petitioner is the State's  
10 Attorney.

11 An act relating to filing fees for petitions to expunge or seal a criminal  
12 history record

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

14 Sec. 1. 32 V.S.A. § 1431 is amended to read:

15 § 1431. FEES IN SUPREME AND SUPERIOR COURTS

16 \* \* \*

17 (e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or  
18 Environmental Division of the Superior Court, including motions to reopen  
19 civil suspensions and motions for sealing or expungement in the Criminal  
20 Division pursuant to 13 V.S.A. § 7602, or motions to reopen existing cases in

1 the Probate Division of the Superior Court, there shall be paid to the clerk of  
2 the court for the benefit of the State a fee of \$90.00 except for small claims  
3 actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court  
4 for a civil petition for minor settlements. For motions to seal or expunge a  
5 criminal history record pursuant to 13 V.S.A. § 7602, the filing fee shall apply  
6 per petition, and each petition may contain multiple requests to seal or expunge  
7 the records of one individual. If the State's Attorney's Office is filing the  
8 motion to seal or expunge the record of an individual pursuant to 13 V.S.A.  
9 § 7609, the filing fee shall not apply.

10 (f) The filing fee for all actions filed in the Judicial Bureau shall be \$65.00;  
11 the State or municipality shall not be required to pay the fee; however, if the  
12 respondent denies the allegations on the ticket, the fee shall be taxed in the bill  
13 of costs in accordance with sections 1433 and 1471 of this title and shall be  
14 paid to the clerk of the Bureau for the benefit of the State.

15 (g) Prior to the filing of any postjudgment motion in the Judicial Bureau  
16 there shall be paid to the clerk of the Bureau, for the benefit of the State, a fee  
17 of \$45.00. Prior to the filing of any appeal from the Judicial Bureau to the  
18 Superior Court, there shall be paid to the clerk of the court, for the benefit of  
19 the State, a fee of \$120.00.

20 (h) Pursuant to Vermont Rules of Civil Procedure 3.1 or Vermont Rules of  
21 Appellate Procedure 24(a), part or all of the filing fee may be waived if the

1 Court finds that the applicant is unable to pay it. The clerk of the court or the  
2 clerk's designee shall establish the in forma pauperis fee in accordance with  
3 procedures and guidelines established by administrative order of the Supreme  
4 Court. If, during the course of the proceeding and prior to a final judgment,  
5 the court determines that the applicant has the ability to pay all or a part of the  
6 waived fee, the court shall require that payment be made prior to issuing a final  
7 judgment. If the applicant fails to pay the fee within a reasonable time, the  
8 court may dismiss the proceeding.

9 Sec. 2. EFFECTIVE DATE

10 This act shall take effect on passage.