

March 4, 2019

The Honorable Maxine Grad

The Honorable Thomas Burditt

Vermont House Committee on Judiciary

Re: H.460 – An act relating to sealing and expungement of criminal history records

Dear Madam Chair Grad and Mr. Vice Chair Burditt,

I am writing to you for two reasons today. To thank you in everything you continue to do for criminal justice reform in the State of Vermont and a brief discussion on how 23 V.S.A. § 1091(a) is discussed in the draft bill.

I myself am someone who has had a run-in with the law. Many years ago, I was arrested for DUI and eventually plead guilty to the lesser charge of Grossly Negligent Operation (misdemeanor). After my arrest, I changed my life to ensure that I would never make such a mistake again. I now lead my life with a different outlook and ensure that I contribute to society.

Even with the changes in my life and new outlook – I become completely anxious whenever I have to answer questions on applications regarding a criminal background. This has usually resulted in additional questioning or detailed explanations (such as when I enter immigration in some countries or during the approval process of the Global Entry program). However, I worry in the future this could hurt job prospects, or when I have a family, can hurt any school or social related activities. Under the current laws, my conviction does not qualify for sealing or expungement since it is a predicate offense.

I believe the changes that are going on in Vermont are a shining example to the rest of the country on how to do criminal justice reform.

In reading the draft bill, it seems the spirit of the proposed legislation is for certain predicate misdemeanors to be sealed after 10 years and expunged after 20 while certain predicate felonies are to be sealed after 20 years and expunged after 30 years. I did notice the following regarding 23 V.S.A. § 1091 which is the section pertaining to negligent operation and grossly negligent operation.

In the proposed bill under the qualifying predicate misdemeanors section, negligent operation is highlighted as follows (page 4, Line 10):

“(K) a violation of 23 V.S.A. § 1091(a) related to negligent operation;”

In the bill under the qualifying predicate felonies section, grossly negligent operation is highlighted as follows (page 7, line 3):

“(E) a violation of 23 V.S.A. § 1091(a) related to grossly negligent operation; and”

I wanted to highlight that 23 V.S.A. § 1091(b) which pertains to grossly negligent operation is a little confusing since the first offense is a misdemeanor and the second and subsequent offenses are felonies.

I wanted to highlight this since 23 V.S.A. § 1091(b) may need to be written like the language of 23 V.S.A. § 1201 which has both misdemeanor and felony components (Page 4, Line 18 & Page 7, Line 5).

I wanted to highlight since many people, including me, are hopeful this legislation will pass and allow us to get past our prior mistakes in life and ensure we are contributing to the greater good of society without the unneeded obstacles of living the rest of our lives with a criminal record.

Thank you very much for your time,

Robert Garcia