



VERMONT CHILDRENS ALLIANCE

PO Box 543, Bennington, Vermont 05201 – www.vtchildrensalliance.org

To: Senate Judiciary Committee
From: Jennifer Poehmann, Esq., Outreach Advocate, Vermont Children's Alliance
Date: April 3, 2019
RE: H.460: An Act Relating to Sealing and Expungement of Criminal History Records

Thank you for the opportunity to comment on H.460 relating to the expungement of criminal records. As a representative of the Vermont Children's Alliance, I am both grateful to speak on their behalf and to appear before you.

As some of you may recall, the Vermont Children's Alliance serves as the umbrella and membership organization for Vermont's Children's Advocacy Centers. I am proud to say our state is unique in that all children's advocacy centers are partnered with our legislatively established Special Investigation Units in every county. Our CACs and SIUs work together to provide a multi-disciplinary, comprehensive, community-based, best practice response to child sexual abuse, child physical abuse and adult sexual assault. The establishment of SIUs in every county in Vermont was mandated after the death of Brooke Bennett in 2006 under 22 V.S.A. §1940. Vermont's CACs/SIUs are held to the highest standards, as established under the National Children's Alliance (NCA), and all programs are routinely subject to review and oversight by NCA, the state's SIU Grants Board and the Vermont Center for Crime Victim Services.

My remarks will be brief on H.460 as proposed, focused solely on one issue – seeking clarifying language to ensure that surcharges imposed as a part of a criminal conviction under 13 V.S.A. §7282 are satisfied before a petition seeking expungement is granted.

We strongly support the proposal by the Vermont Center for Crime Victim Services that the Senate adopt language that explicitly requires a person convicted of a qualifying crime seeking expungement repay in full all outstanding court surcharges. This language was included in Section 2 of the House-introduced bill, but was not included in the As-Passed bill:

13 V.S.A. §7602 (b)(1)(C): **Any surcharges**, and any restitution ordered by the court, has have been paid in full. Our understanding is that this language is needed for clarity, per testimony from the Judiciary offered in the House.

While 13 V.S.A. §7282 states that the current surcharges levied are not waivable, we understand, through testimony already offered, that judges do not always interpret the impact of 13 V.S.A. §7282 on expungement proceedings in a consistent manner.

Addison Children's Advocacy Center ♦ Bennington County Children's Advocacy Center ♦ Caledonia Children's Advocacy Center
Chittenden County Children's Advocacy Center ♦ Lamoille County Children's Advocacy Center ♦ Our House of Central Vermont
Northwest Unit Child Advocacy Center ♦ Orange County Children's Advocacy Center ♦ Orleans County Children's Advocacy Center
Rutland County Child First Advocacy Center ♦ The Child Advocacy Centers of Windsor County at The Family Place ♦ Windham County Safe Place

Further complicating the picture and underscoring the need for clarity, the current law relative to expungement is explicit that restitution orders must be satisfied prior to a petition being granted, while not specifically speaking to the satisfaction of surcharges. As noted, H.460 as introduced added language to existing law which would also make it explicit that surcharges must also be satisfied prior to a petition being granted; this language did not appear in the version as passed the House. Our concern is therefore that current laws impacting expungement only refer to the satisfaction of restitution as an explicit requirement, without referencing surcharges specifically, and the removal of the surcharge language in H.460 as introduced further clouds this picture. We would ask that this Committee consider clarifying what we believe the Legislature's intent was when adopting 13 V.S.A §7282 – that surcharges are not subject to waiver.

Surcharges levied upon a person convicted of a qualifying crime should not be insurmountable, particularly given the "carrot" that the potential for expungement offers and the amount of time that current and proposed legislation builds in before a petition can be filed. Again, we support motivated individuals having a second chance. However, funding raised from surcharges literally keep the doors to our programs open, contributing to public safety and serving victims, who will never have the acts perpetrated on them "expunged". The surcharge dollars raised to support the SIUs comprise over ¼ of their state supported budget. While we applaud your consideration of second chances for many convicted of crimes, we also are grateful for your support for victims of crime and have confidence that this Committee will balance the sometimes competing considerations at play, as it always has in the past.

Thank you again for your time and consideration.