

ACLU-VT Testimony on H. 460  
Senate Judiciary Committee  
Chloé White, Policy Director  
4/3/19



PO Box 277  
Montpelier, VT 05601  
(802) 223-6304  
acluvt.org

Julie Kalish  
*President*

James Lyall  
*Executive Director*

Thank you for inviting me to testify on this important issue. The ACLU has long fought to ameliorate the collateral consequences of criminal records and incarceration, and we think expungement is critical to this effort.

As you may know, according to the National Inventory of Collateral Consequences of Conviction, there are nearly 50,000 federal and state laws or regulations imposing collateral consequences upon people as a result of criminal records.<sup>1</sup> People living with criminal records, and sometimes their families, experience restrictions in obtaining and maintaining housing, employment, certain public benefits, educational loans, driver's licenses, child custody and other parental rights, volunteering opportunities, immigration status, and many other rights or benefits.

Collateral consequences can help perpetuate cycles of poverty and mass incarceration. As they create barriers to reentry and reduce opportunities for employment, housing, and other necessities of daily and family life, they can also increase the risk of recidivism. When an individual completes their sentence, it is expected that they then should become productive members of society, yet a criminal record can hinder efforts to get a well-paying job, among other opportunities. Without a reliable source of income, people may feel they have no recourse to provide for themselves or their families other than to resort to illicit activities. It is critical that we give those who have completed their sentences another chance.

The ACLU supports H. 460. While we view it as a beginning, not an end, to expansion of expungement, we support the extension and expansion of the process in the bill so that more people, especially those who have struggled with substance use disorder, can become and remain contributing members of their communities. We would also support, as suggested by many members of the House and by members of this committee, the addition of DUI 1 to the list of qualifying crimes. We would also support the addition of other driving crimes to the list. For example, it is our understanding that DUIs are often pled down to charges of negligent operation. If

---

<sup>1</sup> Council of State Governments, National Inventory of Collateral Consequences of Conviction, <https://niccc.esgjusticecenter.org/>.

the committee adds DUI 1 to the list, it would make sense to also add this lesser charge to the bill.

Additionally, we hope that the committee will help to ease the burden on those seeking expungements by resolving the issue around surcharges. If a person has completed every other requirement for sealing or expungement, it makes no sense that an administrative surcharge should remain a barrier. The same holds true if an individual's filing have been waived due to an inability to pay, yet they are still required to pay a surcharge even if they cannot afford it. The committee should make the surcharge waivable, just like fines or fees, or, in the alternative, ensure it is not an obstacle to expungement. Instead, if an individual has completed all other requirements for sealing or expungement, their record should be sealed or expunged even if they have an outstanding surcharge. The collections agency that holds the debt can still collect that debt after the person has received their sealing or expungement certificate. New Jersey has implemented a similar system.<sup>2</sup> If one of the goals of sealing or expungement is to broaden employment opportunities for petitioners who have old criminal records, enabling more Vermonters to earn a living, it makes no sense to block them from economic opportunities that would give them a better chance at paying the surcharge.

Thank you again for taking up this important issue. I look forward to answering any questions you may have.

---

<sup>2</sup> See P.L. 2017, c.244 (NJ 2017), [https://www.njleg.state.nj.us/2016/Bills/S3500/3307\\_R1.PDF](https://www.njleg.state.nj.us/2016/Bills/S3500/3307_R1.PDF).