

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 460  
3 entitled “An act relating to sealing and expungement of criminal history  
4 records” respectfully reports that it has considered the same and recommends  
5 that the Senate propose to the House that the bill be amended by striking out all  
6 after the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 13 V.S.A. § 2658 is amended to read:

8 § 2658. ~~PROSTITUTION CONVICTION; MOTION TO VACATE BY~~  
9 VICTIM OF HUMAN TRAFFICKING

10 (a) As used in this section:

11 (1) “Qualifying crime” means a criminal offense in this State that is not  
12 listed in 33 V.S.A. § 5204(a).

13 (2) ~~“victim~~ Victim of human trafficking” means:

14 (1)(A) a victim of a violation of section 2652 or 2653 of this title;

15 or

16 (2)(B) “a victim of a severe form of trafficking” as defined by  
17 22 U.S.C. § 7102(14) (federal Trafficking Victims Protection Act).

18 (b) A person convicted of ~~prostitution in violation of section 2632 of this~~  
19 ~~title~~ a qualifying crime may file a motion to vacate the conviction if it was  
20 obtained as a result of the person having been a victim of human trafficking.  
21 The motion shall be in writing, describe the supporting evidence with

1 particularity, and include copies of any documents showing that the moving  
2 party is entitled to relief under this section.

3 (c) The court shall hold a hearing on the motion, provided that the court  
4 may dismiss a motion without a hearing if the court finds that the motion fails  
5 to assert a claim for which relief may be granted.

6 (d)(1) The court shall grant the motion if it finds by a preponderance of the  
7 evidence that:

8 (A) the moving party was convicted of ~~prostitution in violation of~~  
9 ~~section 2632 of this title~~ a qualifying crime; and

10 (B) the conviction was obtained as a result of the moving party's  
11 having been a victim of human trafficking.

12 (2) If the motion is granted, the court shall vacate the conviction, strike  
13 the adjudication of guilt, and expunge the record of the criminal proceedings.  
14 The court shall issue an order to expunge, or redact the moving party's name  
15 from, all records and files related to the moving party's arrest, citation,  
16 investigation, charge, adjudication of guilt, criminal proceedings, and  
17 probation for the offense.

18 (e) Official documentation of a person's status as a victim of human  
19 trafficking provided by a federal, state, or local government agency shall create  
20 a presumption that the person's ~~prostitution~~ conviction was obtained as a result

1 of having been a victim of human trafficking. Such documentation shall not be  
2 required to grant a motion under this section.

3 Sec. 2. 13 V.S.A. § 7601 is amended to read:

4 § 7601. DEFINITIONS

5 As used in this chapter:

6 (1) “Court” means the Criminal Division of the Superior Court.

7 (2) “Criminal history record” means all information documenting an  
8 individual’s contact with the criminal justice system, including data regarding  
9 identification, arrest or citation, arraignment, judicial disposition, custody, and  
10 supervision.

11 (3) “Predicate offense” means a criminal offense that can be used to  
12 enhance a sentence levied for a later conviction, and includes operating a  
13 vehicle under the influence of alcohol or other substance in violation of  
14 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,  
15 and stalking in violation of section 1062 of this title. “Predicate offense” shall  
16 not include misdemeanor possession of marijuana, ~~or~~ a disorderly conduct  
17 offense under section 1026 of this title, or possession of a controlled substance  
18 in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a),  
19 4234a(a), 4234b(a), 4235(b), or 4235a(a).

20 (4) “Qualifying crime” means:

21 (A) a misdemeanor offense that is not:

- 1 (i) a listed crime as defined in subdivision 5301(7) of this title;
- 2 (ii) an offense involving sexual exploitation of children in  
3 violation of chapter 64 of this title;
- 4 (iii) an offense involving violation of a protection order in  
5 violation of section 1030 of this title;
- 6 (iv) prostitution as defined in section 2632 of this title, or  
7 prohibited conduct under section 2601a of this title; or
- 8 (v) a predicate offense;
- 9 (B) a violation of subsection 3701(a) of this title related to criminal  
10 mischief;
- 11 (C) a violation of section 2501 of this title related to grand larceny;
- 12 (D) a violation of section 1201 of this title related to burglary,  
13 excluding any burglary into an occupied dwelling, as defined in subdivision  
14 1201(b)(2) of this title; ~~or~~
- 15 (E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;
- 16 (F) a violation of section 1802 of this title related to uttering a forged  
17 or counterfeited instrument;
- 18 (G) a violation of 18 V.S.A. § 4230(a) related to possession of  
19 marijuana;
- 20 (H) a violation of 18 V.S.A. § 4231(a) related to possession of  
21 cocaine;

1           (I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

2           (J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

3           (K) a violation of 18 V.S.A. § 4234(a) related to possession of  
4 depressant, stimulant, and narcotic drugs;

5           (L) a violation of 18 V.S.A. § 4234a(a) related to possession of  
6 methamphetamine;

7           (M) a violation of 18 V.S.A. § 4234b(a) related to possession of  
8 ephedrine and pseudoephedrine;

9           (N) a violation of 18 V.S.A. § 4235(b) related to possession of  
10 hallucinogenic drugs;

11           (O) a violation of 18 V.S.A. § 4235a(a) related to possession of  
12 ecstasy; or

13           (P) any offense for which a person has been granted an unconditional  
14 pardon from the Governor.

15       Sec. 3. 13 V.S.A. § 7602 is amended to read:

16       § 7602. EXPUNGEMENT AND SEALING OF RECORD,  
17               POSTCONVICTION; PROCEDURE

18       (a)(1) A person may file a petition with the court requesting expungement  
19       or sealing of the criminal history record related to the conviction if:

20               (A) the person was convicted of a qualifying crime or qualifying  
21       crimes arising out of the same incident or occurrence; ~~or~~

1 (B) the person was convicted of an offense for which the underlying  
2 conduct is no longer prohibited by law or designated as a criminal offense;

3 (C) pursuant to the conditions set forth in subsection (g) of this  
4 section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related  
5 to operating under the influence of alcohol or other substance, excluding a  
6 violation of that section resulting in serious bodily injury or death to any  
7 person other than the operator, or related to operating a school bus with a blood  
8 alcohol concentration of 0.02 or more or operating a commercial vehicle with a  
9 blood alcohol concentration of 0.04 or more; or

10 (D) pursuant to the conditions set forth in subsection (h) of this  
11 section, the person was convicted under 1201(c)(3)(A) of a violation of  
12 subdivision 1201(a) of this title related to burglary when the person was 25  
13 years of age or younger, and the person did not carry a dangerous or deadly  
14 weapon during commission of the offense.

15 (2) The State's Attorney or Attorney General shall be the respondent in  
16 the matter.

17 (3) The court shall grant the petition without hearing if the petitioner  
18 and the respondent stipulate to the granting of the petition. The respondent  
19 shall file the stipulation with the court, and the court shall issue the petitioner a  
20 ~~certificate~~ an order of expungement and provide notice of the order in  
21 accordance with this section.

1           (4) This section shall not apply to an individual licensed as a  
2           commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge  
3           a record of a conviction for a felony offense committed in a motor vehicle as  
4           defined in 23 V.S.A. § 4.

5    \* \* \*

6           (g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only  
7           petitions to seal may be considered or granted by the court. This subsection  
8           shall not apply to an individual licensed as a commercial driver pursuant to 23  
9           V.S.A. chapter 39. Unless the court finds that sealing would not be in the  
10           interests of justice, the court shall grant the petition and order that the criminal  
11           history record be sealed in accordance with section 7607 of this title if the  
12           following conditions are met:

13           (1) At least 10 years have elapsed since the date on which the person  
14           successfully completed the terms and conditions of the sentence for the  
15           conviction, or if the person has successfully completed the terms and  
16           conditions of an indeterminate term of probation that commenced at least 10  
17           years previously.

18           (2) At the time of the filing of the petition:

19           (A) the person has only one conviction of a violation of 23 V.S.A. §  
20           1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

1           (B) the person has not been convicted of a crime arising out of a new  
2           incident or occurrence since the person was convicted of a violation of 23  
3           V.S.A. § 1201(a).

4           (3) Any restitution ordered by the court has been paid in full.

5           (4) The court finds that sealing of the criminal history record serves the  
6           interests of justice.

7           (h) For petitions filed pursuant to subdivision (a)(1)(D) of this section,  
8           unless the court finds that expungement or sealing would not be in the interests  
9           of justice, the court shall grant the petition and order that the criminal history  
10           record be expunged or sealed in accordance with section 7606 or 7607 of this  
11           title if the following conditions are met:

12           (1) At least 15 years have elapsed since the date on which the person  
13           successfully completed the terms and conditions of the sentence for the  
14           conviction, or the person has successfully completed the terms and conditions  
15           of an indeterminate term of probation that commenced at least 15 years  
16           previously.

17           (2) The person has not been convicted of a crime arising out of a new  
18           incident or occurrence since the person was convicted of a violation of  
19           subdivision 1201(c)(3)(A) of this title.

20           (3) Any restitution ordered by the court has been paid in full.



1           (4) The court finds that expungement or sealing of the criminal history  
2           record serves the interests of justice.

3           Sec. 4. 13 V.S.A. § 7603 is amended to read:

4           § 7603. EXPUNGEMENT AND SEALING OF RECORD, NO  
5           CONVICTION; PROCEDURE

6           (a) Unless either party objects in the interests of justice, the court shall  
7           issue an order sealing the criminal history record related to the citation or arrest  
8           of a person:

9           (1) ~~12 months after the dismissal~~ within 60 days after the final  
10          disposition of the case if:

11           (A) the court does not make a determination of probable cause at the  
12          time of arraignment ~~or dismisses the charge at the time of arraignment;~~ or

13           (B) the charge is dismissed before trial without prejudice; or

14          (2) at any time if the prosecuting attorney and the defendant stipulate  
15          that the court may grant the petition to seal the record.

16          (b) If a party objects to sealing or expunging a record pursuant to this  
17          section, the court shall schedule a hearing to determine if sealing or expunging  
18          the record serves the interests of justice. The defendant and the prosecuting  
19          attorney shall be the only parties in the matter.

20          (c), (d) [Repealed.]

1 (e) Unless either party objects in the interests of justice, the court shall  
2 issue an order expunging a criminal history record related to the citation or  
3 arrest of a person:

4 (1) ~~not more than 45 days after~~ within 60 days after the final disposition  
5 of the case if:

6 (A) ~~acquittal if~~ the defendant is acquitted of the charges; or

7 (B) ~~dismissal if~~ the charge is dismissed with prejudice ~~before trial;~~

8 (2) at any time if the prosecuting attorney and the defendant stipulate  
9 that the court may grant the petition to expunge the record.

10 (f) Unless either party objects in the interests of justice, the court shall issue  
11 an order to expunge a record sealed pursuant to subsection (a) or (g) of this  
12 section ~~after the statute of limitations has expired~~ eight years after the date on  
13 which the record was sealed.

14 (g) A person may file a petition with the court requesting sealing or  
15 expungement of a criminal history record related to the citation or arrest of the  
16 person at any time. The court shall grant the petition and issue an order sealing  
17 or expunging the record if it finds that sealing or expunging the record serves  
18 the interests of justice, or if the parties stipulate to sealing or expungement of  
19 the record.

20 (h) The court may expunge any records that were sealed pursuant to this  
21 section prior to July 1, 2018 unless the State's Attorney's office that

1 prosecuted the case objects. Thirty days prior to expunging a record pursuant  
2 to this subsection, the court shall provide to the State's Attorney's office that  
3 prosecuted the case written notice of its intent to expunge the record.

4 Sec. 5. 13 V.S.A. § 7606 is amended to read:

5 § 7606. EFFECT OF EXPUNGEMENT

6 (a) ~~Upon entry of an expungement order, the order shall be legally effective~~  
7 ~~immediately and the person whose record is expunged shall be treated in all~~  
8 ~~respects as if he or she had never been arrested, convicted, or sentenced for the~~  
9 ~~offense. The court shall issue an order to expunge all records and files related~~  
10 ~~to the arrest, citation, investigation, charge, adjudication of guilt, criminal~~  
11 ~~proceedings, and probation related to the sentence. The court shall issue the~~  
12 ~~person a certificate stating that such person's behavior after the conviction has~~  
13 ~~warranted the issuance of the order and that its effect is to annul the record of~~  
14 ~~arrest, conviction, and sentence.~~ Order and notice. Upon finding that the  
15 requirements for expungement have been met, the court shall issue an order  
16 that shall include provisions that its effect is to annul the record of the arrest,  
17 conviction, and sentence and that such person shall be treated in all respects as  
18 if he or she had never been arrested, convicted, or sentenced for the offense.

19 The court shall provide notice of the expungement to the respondent, Vermont  
20 Crime Information Center (VCIC), the arresting agency, and any other entity  
21 that may have a record related to the order to expunge. The VCIC shall

1 provide notice of the expungement to the Federal Bureau of Investigation’s  
2 National Crime Information Center.

3 (b) Effect.

4 (1) Upon entry of an expungement order, the order shall be legally  
5 effective immediately and the person whose record is expunged shall be treated  
6 in all respects as if he or she had never been arrested, convicted, or sentenced  
7 for the offense.

8 (2) In any application for employment, license, or civil right or privilege  
9 or in an appearance as a witness in any proceeding or hearing, a person may be  
10 required to answer questions about a previous criminal history record only with  
11 respect to arrests or convictions that have not been expunged.

12 (3) The response to an inquiry from any person regarding an expunged  
13 record shall be that “NO CRIMINAL RECORD EXISTS.”

14 (4) Nothing in this section shall affect any right of the person whose  
15 record has been expunged to rely on it as a bar to any subsequent proceedings  
16 for the same offense.

17 (c) ~~Nothing in this section shall affect any right of the person whose record~~  
18 ~~has been expunged to rely on it as a bar to any subsequent proceedings for the~~  
19 ~~same offense~~ Process.

20 (1) The court shall remove the expunged offense from any accessible  
21 database that it maintains.

1           (2) Until all charges on a docket are expunged, the case file shall remain  
2           publicly accessible.

3           (3) When all charges on a docket have been expunged, the case file shall  
4           be destroyed pursuant to policies established by the Court Administrator.

5           (d) Special index.

6           (1) The court shall keep a special index of cases that have been  
7           expunged together with the expungement order ~~and the certificate issued~~  
8           ~~pursuant to this chapter.~~ The index shall list only the name of the person  
9           convicted of the offense, his or her date of birth, the docket number, and the  
10          criminal offense that was the subject of the expungement.

11          (2) The special index and related documents specified in subdivision (1)  
12          of this subsection shall be confidential and shall be physically and  
13          electronically segregated in a manner that ensures confidentiality and that  
14          limits access to authorized persons.

15          (3) Inspection of the expungement order ~~and the certificate~~ may be  
16          permitted only upon petition by the person who is the subject of the case. The  
17          ~~Administrative Judge~~ Chief Superior Judge may permit special access to the  
18          index and the documents for research purposes pursuant to the rules for public  
19          access to court records.

20          (4) ~~All other court documents in a case that are subject to an~~  
21          ~~expungement order shall be destroyed~~ [Repealed].

1           (5) The Court Administrator shall establish policies for implementing  
2 this subsection.

3           ~~(e) Upon receiving an inquiry from any person regarding an expunged~~  
4 ~~record, an entity shall respond that “NO RECORD EXISTS.”~~

5 Sec. 6. 13 V.S.A. § 7607 is amended to read:

6 § 7607. EFFECT OF SEALING

7           (a) Order and notice. Upon entry of an order to seal, the order shall be  
8 legally effective immediately and the person whose record is sealed shall be  
9 treated in all respects as if he or she had never been arrested, convicted, or  
10 sentenced for the offense. ~~The court shall issue the person a certificate stating~~  
11 ~~that such person’s behavior after the conviction has warranted the issuance of~~  
12 ~~the order~~ and that its effect is to annul the record of arrest, conviction, and  
13 sentence. The court shall provide notice of the sealing to the respondent,  
14 Vermont Crime Information Center (VCIC), the arresting agency, and any  
15 other entity that may have a record related to the order to seal. The VCIC shall  
16 provide notice of the sealing to the Federal Bureau of Investigation’s National  
17 Crime Information Center.

18           (b) Effect.

19           (1) Except as provided in subdivision (c) of this section, upon entry of a  
20 sealing order, the order shall be legally effective immediately and the person

1 whose record is sealed shall be treated in all respects as if he or she had never  
2 been arrested, convicted, or sentenced for the offense.

3 (2) In any application for employment, license, or civil right or privilege  
4 or in an appearance as a witness in any proceeding or hearing, a person may be  
5 required to answer questions about a previous criminal history record only with  
6 respect to arrests or convictions that have not been sealed.

7 (3) The response to an inquiry from any member of the public regarding  
8 a sealed record shall be that “NO CRIMINAL RECORD EXISTS.”

9 (c) Exceptions. Notwithstanding any other provision of law or a sealing  
10 order:

11 (1) An entity that possesses a sealed record may continue to use it for  
12 any litigation or claim arising out of the same incident or occurrence or  
13 involving the same defendant.

14 (2) ~~An entity~~ A criminal justice agency as defined in 20 V.S.A. § 2056a  
15 may use the criminal history record sealed in accordance with section 7602 or  
16 7603 of this title, regarding a person who was cited or arrested, for future  
17 criminal investigations or prosecutions without limitation for criminal justice  
18 purposes as defined in 20 V.S.A. § 2056a. A sealed record of a prior violation  
19 of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the  
20 purpose of imposing an enhanced penalty for a subsequent violation of that  
21 section, in accordance with the provisions of 23 V.S.A. § 1210.

1           (d) ~~Upon receiving a sealing order, an entity shall:~~ Process.

2                   (1) ~~seal the investigation or prosecution record;~~ The court shall bar  
3 viewing of the sealed offense in any accessible database that it maintains.

4                   (2) ~~enter a copy of the sealing order into the record;~~ Until all charges on  
5 a docket have been sealed, the case file shall remain publicly accessible.

6                   (3) ~~flag the record as “SEALED” to prevent inadvertent disclosure of~~  
7 ~~sealed information; and~~ When all charges on a docket have been sealed, the  
8 case file shall become exempt from public access.

9                   (4) ~~upon receiving an inquiry from any person regarding a sealed record,~~  
10 ~~respond that “NO RECORD EXISTS.”~~

11           (e) Special index.

12                   (1) The court shall keep a special index of cases that have been sealed  
13 together with the sealing order. The index shall list only the name of the  
14 person convicted of the offense, his or her date of birth, the docket number,  
15 and the criminal offense that was the subject of the sealing.

16                   (2) The special index and related documents specified in subdivision (1)  
17 of this subsection shall be confidential and shall be physically and  
18 electronically segregated in a manner that ensures confidentiality and that  
19 limits access to authorized persons.

20                   (3) Except as provided in subsection (c) of this section, inspection of the  
21 sealing order may be permitted only upon petition by the person who is the



1 subject of the case. The Chief Superior Judge may permit special access to the  
2 index and the documents for research purposes pursuant to the rules for public  
3 access to court records.

4 (4) The Court Administrator shall establish policies for implementing  
5 this subsection.

6 Sec. 7. 13 V.S.A. § 7610 is added to read:

7 § 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

8 There is established the Criminal History Record Sealing Special Fund,  
9 which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.  
10 Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to  
11 seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be  
12 deposited into and credited to this Fund. This Fund shall be available to the  
13 Office of the Court Administrator, the Department of State’s Attorneys and  
14 Sheriffs, the Department of Motor Vehicles, and the Vermont Crime  
15 Information Center to offset the administrative costs of sealing such records.  
16 Balances in the Fund at the end of the fiscal year shall be carried forward and  
17 remain in the Fund.

18 Sec. 8. 23 V.S.A. § 1205 is amended to read:

19 § 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

20 \* \* \*

1 (e) Effective date of suspension.

2 (1) First offense. Unless a hearing is requested, a suspension under this  
3 section of the license of a person who the officer has reasonable grounds to  
4 believe violated section 1201 of this title a first time becomes effective on the  
5 11th day after the person receives notice or is deemed to have received notice  
6 under subsection (c) of this section. If a hearing is requested, a suspension  
7 shall not become effective unless the court orders a suspension after hearing as  
8 provided in this section.

9 (2) Second or subsequent offense. A suspension of a person's license  
10 under this section shall become effective on the 11th day after the person  
11 receives notice or is deemed to have received notice under subsection (c) of  
12 this section if:

13 (A) the officer has reasonable grounds to believe the person has  
14 violated section 1201 of this title; and

15 (B) ~~after July 1, 1991~~ within the last 20 years, the person has:

16 (i) had his or her operator's license suspended pursuant to this  
17 section; or

18 (ii) been convicted of a violation of section 1201 of this title.

19 \* \* \*

1 Sec. 9. 23 V.S.A. § 1210 is amended to read:

2 § 1210. PENALTIES

3 (a) Screening. Before sentencing a defendant under this section, the ~~Court~~  
4 court may order that the defendant submit to an alcohol assessment screening.  
5 Such a screening report may be considered at sentencing in the same manner as  
6 a presentence report. At sentencing, the defendant may present relevant  
7 evidence, including the results of any independent alcohol assessment ~~which~~  
8 that was conducted at the person's own expense. Evidence regarding any such  
9 screening or an alcohol assessment performed at the expense of the defendant  
10 shall not be admissible for any other purpose without the defendant's consent.

11 (b) First offense. A person who violates section 1201 of this title may be  
12 fined not more than \$750.00, or imprisoned for not more than two years, or  
13 both.

14 (c) Second offense. A person convicted of violating section 1201 of this  
15 title who has been convicted of another violation of that section within the last  
16 20 years shall be fined not more than \$1,500.00 or imprisoned not more than  
17 two years, or both. At least 200 hours of community service shall be  
18 performed, or 60 consecutive hours of the sentence of imprisonment shall be  
19 served and may not be suspended or deferred or served as a supervised  
20 sentence, except that credit for a sentence of imprisonment may be received for

1 time served in a residential alcohol facility pursuant to sentence if the program  
2 is successfully completed.

3 (d) Third offense. A person convicted of violating section 1201 of this title  
4 who has previously been convicted two times of a violation of that section,  
5 including at least one violation within the last 20 years, shall be fined not more  
6 than \$2,500.00 or imprisoned not more than five years, or both. At least 96  
7 consecutive hours of the sentence of imprisonment shall be served and may not  
8 be suspended or deferred or served as a supervised sentence, except that credit  
9 for a sentence of imprisonment may be received for time served in a residential  
10 alcohol facility pursuant to sentence if the program is successfully completed.

11 The ~~Court~~ court may impose a sentence that does not include a term of  
12 imprisonment or that does not require that the 96 hours of imprisonment be  
13 served consecutively only if the ~~Court~~ court makes written findings on the  
14 record that such a sentence will serve the interests of justice and public safety.

15 (e)(1) Fourth or subsequent offense. A person convicted of violating  
16 section 1201 of this title who has previously been convicted three or more  
17 times of a violation of that section, including at least one violation within the  
18 last 20 years, shall be fined not more than \$5,000.00 or imprisoned not more  
19 than 10 years, or both. At least 192 consecutive hours of the sentence of  
20 imprisonment shall be served and may not be suspended or deferred or served  
21 as a supervised sentence, except that credit for a sentence of imprisonment may

1 be received for time served in a residential alcohol treatment facility pursuant  
2 to sentence if the program is successfully completed. The ~~Court~~ court shall not  
3 impose a sentence that does not include a term of imprisonment unless the  
4 ~~Court~~ court makes written findings on the record that there are compelling  
5 reasons why such a sentence will serve the interests of justice and public  
6 safety.

7 (2) The Department of Corrections shall provide alcohol and substance  
8 abuse treatment, when appropriate, to any person convicted of a violation of  
9 this subsection.

10 \* \* \*

11 Sec. 10. 32 V.S.A. § 1431 is amended to read:

12 § 1431. FEES IN SUPREME AND SUPERIOR COURTS

13 \* \* \*

14 (e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or  
15 Environmental Division of the Superior Court, including motions to reopen  
16 civil suspensions ~~and motions for sealing or expungement in the Criminal~~  
17 ~~Division pursuant to 13 V.S.A. § 7602~~, or motions to reopen existing cases in  
18 the Probate Division of the Superior Court, there shall be paid to the clerk of  
19 the court for the benefit of the State a fee of \$90.00 except for small claims  
20 actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court  
21 for a civil petition for minor settlements. The \$90.00 filing fee shall apply for

1 a motion to seal a criminal history record of a violation of 23 V.S.A. § 1201(a)  
2 pursuant to 13 V.S.A. § 7602(a)(1)(C), but shall not apply for any other motion  
3 to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

4 \* \* \*

5 Sec. 11. VERMONT SENTENCING COMMISSION; COUNCIL OF STATE  
6 GOVERNMENTS; JUSTICE OVERSIGHT COMMITTEE;  
7 REPORTS ON EXPUNGEMENT AND SEALING

8 During the 2019 legislative interim:

9 (1) the Vermont Sentencing Commission, established under 13 V.S.A.  
10 § 5451, shall conduct a comprehensive assessment of the statutes governing the  
11 expungement and sealing of criminal history records in Vermont, including  
12 reviewing the crimes eligible for expungement or sealing, the process by which  
13 criminal history records are expunged or sealed, the mechanism by which  
14 expunged or sealed records are indexed, and the effect of sealing or  
15 expungement. As a part of its assessment, the Commission shall evaluate all  
16 Vermont civil offenses and the crime of negligent operation of a motor vehicle  
17 under 23 V.S.A. § 1091(a) for their suitability for expungement or sealing  
18 eligibility.

19 (2) on or before November 1, 2019, the Commission shall report to the  
20 Joint Legislative Justice Oversight Committee and the House and Senate  
21 Committees on Judiciary with recommendations regarding:

1           (A) improvements to the expungement and sealing process; and

2           (B) any additional crimes or civil offenses appropriate for

3           expungement or sealing eligibility.

4           (3) the Joint Legislative Justice Oversight Committee, working with the

5           Council of State Governments Justice Center, shall conduct a review of the

6           Vermont statutes governing expungement and sealing of criminal history

7           records and develop a comprehensive policy to help individuals with a criminal

8           record overcome barriers to employment and licensing through clearing their

9           records. Any recommendations for reform of the expungement and sealing

10          chapter and other relevant statutes shall be introduced in the form of proposed

11          legislation for the 2020 legislative session.

12          Sec. 12. SURCHARGES STUDY GROUP

13          During the 2019 legislative interim, the Vermont Center for Crime Victim

14          Services, the Office of the Court Administrator, Vermont Legal Aid, and a

15          representative of the special investigative units created pursuant to 24 V.S.A.

16          § 1940 shall examine the issue of requiring a petitioner to pay outstanding

17          surcharges prior to a court granting an expungement or sealing petition. On or

18          before October 15, 2019, the group shall report to the Joint Legislative Justice

19          Oversight Committee with its findings and any recommendations for

20          legislative action.

1       Sec. 13. REVIEW OF PROSTITUTION AND HUMAN TRAFFICKING

2                   LAWS

3               The Attorney General’s Office, the Center for Crime Victim Services, and  
4       the Network Against Domestic and Sexual Violence, in consultation with other  
5       entities with expertise in these issues, shall review 13 V.S.A. chapter 59,  
6       subchapter 2 (prostitution) and 13 V.S.A. chapter 60 (human trafficking),  
7       13 V.S.A. § 1311 (unlawful sheltering; aiding a runaway), and 33 V.S.A.  
8       § 5304 (designated shelters for runaway children) for the purpose of making  
9       recommendations to the General Assembly regarding modernization of these  
10       laws and employment of best practices in addressing the issue of prostitution  
11       and human trafficking. The group shall also make a recommendation as to  
12       whether 13 V.S.A. § 2658 (motion to vacate by victim of human trafficking)  
13       should be amended to allow a person to file a motion to vacate a conviction for  
14       any criminal offense if it was obtained as a result of the moving party’s having  
15       been a victim of human trafficking. The group shall report its  
16       recommendations to the General Assembly not later than October 15, 2019.  
17       Recommendations may be made through proposed legislation and do not  
18       require a report.



1       Sec. 14. EFFECTIVE DATES

2           This act shall take effect on July 1, 2019, except that Sec. 3 (expungement  
3           and sealing of record; postconviction; procedure) shall take effect on  
4           October 1, 2019.

5

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9           (Committee vote: \_\_\_\_\_)

10

\_\_\_\_\_

11

Senator \_\_\_\_\_

12

FOR THE COMMITTEE