

1 S.107

2 Introduced by Senators White, Clarkson, Pollina and Ram

3 Referred to Committee on Judiciary

4 Date: March 9, 2021

5 Subject: General provisions; common law; general rights; Public Records Act;
6 records relating to juvenile proceedings

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) exempt from the Public Records Act and make confidential any
9 identifying information contained in a record reflecting the initial arrest or
10 charge of a juvenile; and

11 (2) make the Family Division or Criminal Division of the Superior
12 Court the sole records custodian for purposes of responding to a request for
13 law enforcement and court records relating to a person under the jurisdiction
14 of either court pursuant to 33 V.S.A. chapters 52 and 52A.

15 An act relating to confidential information concerning the initial arrest and
16 charge of a juvenile

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

2 * * * Exemption; records of arrest or charge of a juvenile * * *

3 Sec. 1. 1 V.S.A. § 317 is amended to read:

4 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
5 DOCUMENTS; EXEMPTIONS

6 * * *

7 (c) The following public records are exempt from public inspection and
8 copying:

9 * * *

10 (5)(A) Records dealing with the detection and investigation of crime,
11 but only to the extent that the production of such records:

12 * * *

13 (B)(i) Notwithstanding subdivision (A) of this subdivision (5),
14 records relating to management and direction of a law enforcement agency;
15 records reflecting the initial arrest of a person, including any ticket, citation, or
16 complaint issued for a traffic violation, as that term is defined in 23 V.S.A.
17 § 2302; and records reflecting the charge of a person shall be public.

18 (ii) A public agency shall not release any information within a
19 record reflecting the initial arrest or charge of a person under 19 years of age
20 that would reveal the identity of the person. However, a public agency may

1 disclose identifying information relating to the initial arrest of a person under
2 19 years of age in order to protect the health and safety of any person.

3 * * *

4 * * * Effective July 1, 2022 * * *

5 Sec. 2. 1 V.S.A. § 317 is amended to read:

6 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND
7 DOCUMENTS; EXEMPTIONS

8 * * *

9 (c) The following public records are exempt from public inspection and
10 copying:

11 * * *

12 (5)(A) Records dealing with the detection and investigation of crime,
13 but only to the extent that the production of such records:

14 * * *

15 (B)(i) Notwithstanding subdivision (A) of this subdivision (5),
16 records relating to management and direction of a law enforcement agency;
17 records reflecting the initial arrest of a person, including any ticket, citation, or
18 complaint issued for a traffic violation, as that term is defined in 23 V.S.A.
19 § 2302; and records reflecting the charge of a person shall be public.

20 ~~(ii) A public agency shall not release any information within a~~
21 ~~record reflecting the initial arrest or charge of a person under the age of 19 20~~

1 ~~years of age that would reveal the identity of the person. However, a public~~
2 agency may disclose identifying information relating to the arrest of a person
3 under the age of ~~19~~ 20 years of age in order to protect the health and safety of
4 ~~any person.~~

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under ~~19~~ 20 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under ~~19~~ 20 years of age in order to protect the health and safety of any person.

5 * * *

6 Sec. 3. APPLICATION OF PUBLIC RECORDS ACT EXEMPTION

7 REVIEW

8 Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption
9 amended in Sec. 1 shall continue in effect and shall not be reviewed for repeal.

10 * * * Custodian of records relating to a person

11 under court jurisdiction * * *

12 Sec. 4. 33 V.S.A. § 5117 is amended to read:

13 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

14 (a)(1) Except as otherwise provided, court and law enforcement reports and
15 files concerning a person subject to the jurisdiction of the court shall be
16 maintained separate from the records and files of other persons. Unless a
17 charge of delinquency is transferred for criminal prosecution under chapter 52
18 of this title or the court otherwise orders in the interests of the child, such

1 records and files shall not be open to public inspection nor their contents
2 disclosed to the public by any person. However, upon a finding that a child is
3 a delinquent child by reason of commission of a delinquent act ~~which~~ that
4 would have been a felony if committed by an adult, the court, upon request of
5 the victim, shall make the child's name available to the victim of the
6 delinquent act. If the victim is incompetent or deceased, the child's name shall
7 be released, upon request, to the victim's guardian or next of kin.

8 (2) When a person is subject to the jurisdiction of the court, the court
9 shall become the sole records custodian for purposes of responding to any
10 request for court or law enforcement records concerning the person. A public
11 agency shall direct any request for these records to the courts for response.

12 (3) When a person is subject to the jurisdiction of the Criminal Division
13 of the Superior Court pursuant to chapter 52 or 52A of this title, the Criminal
14 Division of the Superior Court shall become the sole records custodian for
15 purposes of responding to any request for court or law enforcement records
16 concerning the person. A public agency shall direct any request for these
17 records to the courts for response.

18 * * *

* * * Effective Dates * * *

1
2 Sec. 5. EFFECTIVE DATES

3 This act shall take effect on July 1, 2021, except that Sec. 2 (2022
4 amendment to 1 V.S.A. § 317(c)(5)(B)(ii) (public records; exemptions; records
5 relating to the initial arrest and charge of a person)) shall take effect on July 1,
6 2022.