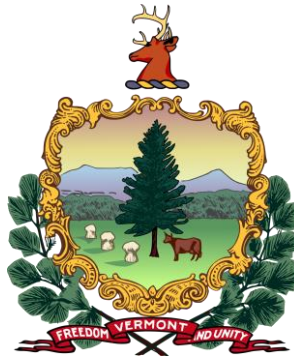


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**STATE OF VERMONT
OFFICE OF THE CHITTENDEN COUNTY STATE'S ATTORNEY**

To: Chair Maxine Grad and H. Judiciary Committee Members
From: Sarah F. George, Chittenden County State's Attorney
Date: January 21, 2021
RE: My Support for H. 534, as Introduced

Dear Madame Chair and members of the House Judiciary Committee,

I am writing to convey my office's overwhelming support for H. 534 as introduced and to thank for you taking this important issue up again this session.

Since I was elected in 2017, my office has been a consistent supporter of criminal record expungements and has partnered with the Vermont Law School, Vermont Legal Aid, and the Attorney General's Office in expungement clinics and case work whenever possible. In 2021, my office stipulated to and processed 2,264 expungement petitions and sealed 179 DUI cases. In 2020, that number was 3,315 expungements and 182 DUI sealings. Most of these requests came from community members seeking a real chance at obtaining decent employment or engaging in another aspect of community life.

It is my belief that public safety is as related to accountability for individual crimes as it is to reentry and integration after an individual completes their sentence. When the court sentences someone for a crime, the court reviews the terms of that sentence with meticulous attention to detail. The message we give that person is: serve out your punishment and then you may reenter our community, without conditions. But we know that is not what happens in Vermont or across this country. Most people in Vermont who come into the criminal legal system come from poverty, and the criminal record they have after sentence completion deepens that poverty and puts economic mobility further out of reach. The second de facto sentence of a criminal record frustrates my office's goal to help maintain public safety in my

community. When a former defendant is unable to secure decent and legal employment, how are they supposed to provide for their basic needs? They must eat. They must have a roof over their heads. They must clothe themselves. With no legal employment options, criminal activity begins to look like a viable option. Now, more than ever, I think H. 534 could improve public safety in my community by making record clearance more accessible to more Vermonters who need economic opportunity.

There are a few provisions in this bill I want to highlight as particularly important. I support the expansion of the “qualifying crime” definition to include felony property offenses and predicate offenses. I support the decreased wait-time for minor misdemeanors that typically have little bearing on public safety. I also support the move to a one-track sealing system and appreciate how sealing is defined in H. 534. My perspective is that a sealed record should be accessible to the Court and select few law enforcement officers in rare circumstances, and only for a brief period after a record is sealed. There is no public safety reason why prosecutors need access to these records after records are sealed. If there is a valid reason for needing access, we will most likely object to the sealing at all, but it is far more likely that by the time a petitioner is eligible for sealing, they have already demonstrated their low risk to re-offend.

I also want to voice my agreement with some of the comments made in last week’s testimony by Vermont Legal Aid, the Attorney General’s Office, and the Defender General.

- We would like to see felony possession drug crimes—including possession of fentanyl— included in this bill.
- My office agrees with the Defender General and Vermont Legal Aid that the time is ripe for Vermont to develop a system to automate the sealing of a subset of minor criminal convictions. My office spends too many resources processing the expungement petitions for minor crimes that merit little to no review. I would like to shift our resources to petitions that need review rather than the cases that have little impact on public safety.
- We also agree with the Attorney General’s Office and Vermont Legal Aid that stipulation authority should remain as it is under current law: either the Attorney General or the State’s Attorney’s office that prosecuted the crime can stipulate to expunge or seal a record.
- We appreciate Vermont Legal Aid’s suggestion that this bill include a “catch-all” provision to allow petitioners who have non-qualifying crimes on their records to request a hearing on their petition, their rehabilitation, and the compelling need for record clearance, after they have served their sentence and waited an additional period (10-15 years depending on severity).

Finally, I agree with Representative Rachelson’s suggestion, which was made during the walk-through earlier this month. Current law requires payment of fines assessed in offenses on

longer considered criminal before a petitioner can obtain an expungement. We support removing that provision and waiving any fines assessed where the underlying offense is no longer a crime.

Thank you for your work on H. 534.

Sincerely,

A handwritten signature in blue ink that reads "Sarah F. George". The signature is written in a cursive, flowing style.

Sarah F. George, Esq.