

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 7
3 entitled “An act relating to expanding access to expungement and sealing of
4 criminal history records” respectfully reports that it has considered the same
5 and recommends that the House propose to the Senate that the bill be amended
6 by striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. 13 V.S.A. § 5301 is amended to read:

9 § 5301. DEFINITIONS

10 As used in this chapter:

11 * * *

12 (7) “Listed crime” means any of the following offenses:

13 (A) stalking as defined in section 1062 of this title;

14 (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4)(b)
15 of this title;

16 (C) domestic assault as defined in section 1042 of this title;

17 (D) first degree aggravated domestic assault as defined in section
18 1043 of this title;

19 (E) second degree aggravated domestic assault as defined in section
20 1044 of this title;

- 1 (F) sexual assault as defined in section 3252 of this title or its
2 predecessor as it was defined in section 3201 or 3202 of this title;
- 3 (G) aggravated sexual assault as defined in section 3253 of this title;
- 4 (H) lewd or lascivious conduct as defined in section 2601 of this title;
- 5 (I) lewd or lascivious conduct with a child as defined in section 2602
6 of this title;
- 7 (J) murder as defined in section 2301 of this title;
- 8 (K) aggravated murder as defined in section 2311 of this title;
- 9 (L) manslaughter as defined in section 2304 of this title;
- 10 (M) aggravated assault as defined in section 1024 of this title;
- 11 (N) assault and robbery with a dangerous weapon as defined in
12 subsection 608(b) of this title;
- 13 (O) arson causing death as defined in section 501 of this title;
- 14 (P) assault and robbery causing bodily injury as defined in subsection
15 608(c) of this title;
- 16 (Q) maiming as defined in section 2701 of this title;
- 17 (R) kidnapping as defined in section 2405 of this title or its
18 predecessor as it was defined in section 2401 of this title;
- 19 (S) unlawful restraint in the second degree as defined in section 2406
20 of this title;

1 (T) unlawful restraint in the first degree as defined in section 2407 of
2 this title;

3 (U) recklessly endangering another person as defined in section 1025
4 of this title;

5 (V) violation of abuse prevention order as defined in section 1030 of
6 this title, excluding violation of an abuse prevention order issued pursuant to
7 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

8 (W) operating vehicle under the influence of alcohol or other
9 substance with either death or serious bodily injury resulting as defined in
10 23 V.S.A. § 1210(f) and (g);

11 (X) ~~careless or negligent~~ grossly negligent operation resulting in
12 serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

13 (Y) leaving the scene of an accident with serious bodily injury or
14 death as defined in 23 V.S.A. § 1128(b) or (c);

15 (Z) burglary into an occupied dwelling as defined in subsection
16 1201(c) of this title;

17 (AA) the attempt to commit any of the offenses listed in this section;

18 (BB) abuse (section 1376 of this title), abuse by restraint (section
19 1377 of this title), neglect (section 1378 of this title), sexual abuse (section
20 1379 of this title), financial exploitation (section 1380 of this title), and
21 exploitation of services (section 1381 of this title);

1 (CC) aggravated sexual assault of a child in violation of section
2 3253a of this title;

3 (DD) human trafficking in violation of section 2652 of this title; and

4 (EE) aggravated human trafficking in violation of section 2653 of
5 this title.

6 Sec. 2. 13 V.S.A. § 7282 is amended to read:

7 § 7282. SURCHARGE

8 * * *

9 (b) The surcharges imposed by this section shall not be waived by the court
10 except as part of an expungement or sealing proceeding where the petitioner
11 demonstrates an inability to pay.

12 * * *

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

14 § 7601. DEFINITIONS

15 As used in this chapter:

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

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

1 (3) “Predicate offense” means a criminal offense that can be used to
2 enhance a sentence levied for a later conviction and includes operating a
3 vehicle under the influence of alcohol or other substance in violation of
4 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,
5 and stalking in violation of section 1062 of this title. “Predicate offense” shall
6 not include misdemeanor possession of cannabis, a disorderly conduct offense
7 under section 1026 of this title, or possession of a controlled substance in
8 violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a),
9 4234b(a), 4235(b), or 4235a(a).

10 (4) “Qualifying crime” means:

11 (A) a misdemeanor offense that is not:

12 (i) a listed crime as defined in subdivision 5301(7) of this title; ~~or~~

13 (ii) an offense involving sexual exploitation of children in
14 violation of chapter 64 of this title;

15 (iii) an offense involving a violation of a protection order in
16 violation of section 1030 of this title; or a violation of an abuse prevention
17 order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. §
18 6936 (emergency relief);

19 (iv) an offense involving abuse, neglect, and exploitation of
20 vulnerable adults is violation of chapter 28 of this title;

- 1 (v) a violation of subsection 2605(b) or (c) of this title related to
2 voyeurism;
- 3 (vi) an offense involving cruelty to animals in violation of section
4 352(1)-(10) of this title;
- 5 (vii) a violation of section 1025a of this title related to aggravated
6 disorderly conduct;
- 7 (viii) a violation of section 3006 of this title related to neglect of
8 duty by a public officer;
- 9 (ix) a violation of section 5409 of this title related to failure to
10 comply with sex offender registry requirements;
- 11 (ix) a violation of sections 2802, 2802a, 2803, 2804, or 2804b
12 related to obscenity;
- 13 (x) a violation of section 1455 of this title related to hate
14 motivated crimes; or
- 15 (xi) a violation of section 1456 of this title related to burning of a
16 religious symbol;
- 17 ~~(iv) prostitution as defined in section 2632 of this title, or~~
18 ~~prohibited conduct under section 2601a of this title; or~~
- 19 ~~(v) a predicate offense;~~
- 20 ~~(B) a violation of subsection 3701(a) of this title related to criminal~~
21 ~~mischief;~~

1 ~~(C) a violation of section 2501 of this title related to grand larceny;~~

2 ~~(D) subject to the conditions set forth in subdivision (a)(1)(D) of~~

3 ~~section 7602 of this title, a violation of section 1201 of this title related to~~

4 ~~burglary, excluding any burglary into an occupied dwelling, as defined in~~

5 ~~subdivision 1201(b)(2) of this title;~~

6 ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

7 ~~(F) a violation of section 1802 of this title related to uttering a forged~~

8 ~~or counterfeited instrument;~~

9 ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession of~~

10 ~~cannabis;~~

11 ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of~~

12 ~~cocaine;~~

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

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

15 ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of~~

16 ~~depressant, stimulant, and narcotic drugs;~~

17 ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of~~

18 ~~methamphetamine;~~

19 ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of~~

20 ~~ephedrine and pseudoephedrine;~~

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

3 ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of~~
4 ~~eestasy; or~~

5 (C) offenses relating to possession of regulated substances, including
6 violations of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a),
7 4234a(a), 4234b(a), 4235(b), or 4235a(a);

8 (D) offenses relating to selling, dispensing, or transporting regulated
9 substances, including violations of 18 V.S.A. § 4230(b), 4231(b), 4232(b),
10 4233(b), 4234(b), 4234a(b), 4234b(b), 4235(c), or 4235a(b);

11 (E) qualifying felony property offenses as defined in subdivision (5)
12 of this subsection; or

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

15 (5) “Qualifying felony property offense” means a felony level violation
16 of 9 V.S.A. § 4043 related to fraudulent use; 18 V.S.A. § 4223 related to fraud
17 or deceit; section 1801 of this title related to forgery and counterfeiting; section
18 1802 of this title related to uttering forged or counterfeited instrument; section
19 1804 of this title related to counterfeiting paper money; section 1816 of this
20 title related to possession or use of credit card skimming devices; section 2001
21 of this title related to false personation; section 2002 of this title related to false

1 pretenses or tokens; section 2029 of this title related to home improvement
2 fraud; section 2030 of this title related to identity theft; section 2501 of this
3 title related to grand larceny; section 2502 of this title related to petit larceny;
4 section 2503 of this title related to larceny from the person; section 2531 of
5 this title related to embezzlement; section 2532 of this title related to officers
6 or servants of incorporated bank; section 2533 of this title related to receiver or
7 trustee; section 2537 of this title related to holding property in official capacity
8 or belonging to the State or a municipality; section 2561 of this title related to
9 receiving stolen property; section 2575a of this title related to organized retail
10 theft; section 2577 of this title related to retail theft; section 2582 of this title
11 related to theft of services; section 2591 of this title related to theft of rented
12 property; section 2592 of this title related to failure to return a rented or leased
13 motor vehicle; section 3016 of this title related to false claims; section 3701 of
14 this title related to unlawful mischief; section 3705 of this title related to
15 unlawful trespass; section 3733 of this title related to mills, dams, or bridges;
16 section 3761 of this title related to unauthorized removal of human remains;
17 section 3767 of this title related to grave markers and ornaments; section 4103
18 of this title related to access to computer for fraudulent purposes; section 4104
19 of this title related to alteration, damage, or interference; or section 4105 of this
20 title related to theft or destruction.

1 (D) pursuant to the conditions set forth in subsection (h) of this
2 section, the person was convicted under 1201(c)(3)(A) of a violation of
3 subdivision 1201(a) of this title related to burglary when the person was
4 25 years of age or younger, and the person did not carry a dangerous or deadly
5 weapon during commission of the offense.

6 (2) The State’s Attorney or Attorney General shall be the respondent in
7 the matter. For those offenses eligible for an early petition with stipulation
8 pursuant to this section, if a person petitions to seal or expunge a criminal
9 history record prior to the date the offense is eligible for sealing or
10 expungement as provided in this section, only the office that prosecuted the
11 offense that is the subject of the sealing or expungement petition may stipulate
12 to that petition. The office that prosecuted the offense may waive this
13 requirement to allow for another prosecutorial office to stipulate to a petition
14 filed prior to the date the offense is eligible for sealing or expungement.

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

20 (4) This section shall not apply to an individual licensed as a
21 commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge

1 a record of a conviction for a felony offense committed in a motor vehicle as
2 defined in 23 V.S.A. § 4.

3 (5) Except for criminal conviction records of offenses for which the
4 underlying conduct is no longer prohibited by law or designated as a criminal
5 offense, a criminal conviction record of a person who is under the supervision
6 of the Department of Corrections at the time the person files a petition pursuant
7 to this section shall not be eligible for sealing or expungement.

8 (b) Qualifying nonpredicate misdemeanors and possession of a controlled
9 substance offenses. For petitions filed to expunge or seal a criminal history
10 record of a nonpredicate misdemeanor offense or a violation of 18 V.S.A.
11 § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or
12 4235a(a):

13 (1) The court shall grant the petition and order that the criminal history
14 record be expunged pursuant to section 7606 of this title if the following
15 conditions are met:

16 (A) At least five years have elapsed since:

17 (i) the date on which the person successfully completed the terms
18 and conditions of the sentence for the conviction satisfied the judgement, or if
19 the person has successfully completed the terms and conditions of an
20 indeterminate term of probation that commenced at least five years previously;
21 or

1 (ii) if the person committed a subsequent offense, the date on
2 which the person satisfied the judgment for the subsequent offense, whichever
3 is later.

4 (B) ~~The person has not been convicted of a crime arising out of a new~~
5 ~~incident or occurrence since the person was convicted for the qualifying crime.~~
6 [Repealed.]

7 (C) Any restitution and surcharges ordered by the court have been
8 paid in full, provided that payment of surcharges shall not be required if the
9 surcharges have been waived by the court pursuant to section 7282 of this title.

10 (D) The court finds that expungement of the criminal history record
11 serves the interests of justice.

12 (2) The court shall grant the petition and order that all or part of the
13 criminal history record be sealed pursuant to section 7607 of this title if the
14 conditions of subdivisions (1)(A), ~~(B)~~, and (C) of this subsection are met and
15 the court finds that:

16 (A) sealing the criminal history record better serves the interests of
17 justice than expungement; and

18 (B) the person committed the qualifying crime after reaching 19
19 years of age.

20 (3) If the respondent stipulates to a petition filed on or after the date the
21 offense is eligible for expungement or sealing as set forth in this subsection,

1 the court may grant the petition without a hearing. ~~If the person did not~~
2 ~~commit a subsequent offense, the respondent may stipulate to a petition filed~~
3 ~~prior to the date the offense is eligible for expungement or sealing as set forth~~
4 ~~in this subsection, and the court may grant the petition without a hearing if it~~
5 ~~finds that the person successfully completed ay required rehabilitation to the~~
6 ~~satisfaction of the court.~~

7 (c) Qualifying predicate misdemeanors. Except as provided in subsection
8 (g) of this section, for petitions filed to expunge or seal a criminal history
9 record of a qualifying predicate misdemeanor offense:

10 (1) The court shall grant the petition and order that the criminal history
11 record be ~~expunged~~ sealed pursuant to section ~~7606~~ 7607 of this title if the
12 following conditions are met:

13 (A) At least ~~40~~ five years have elapsed since:

14 (i) the date on which the person ~~successfully completed the terms~~
15 ~~and conditions of the sentence for the conviction~~ satisfied the judgement; or

16 (ii) if the person committed a subsequent offense, the date on
17 which the person satisfied the judgement for the subsequent offense, whichever
18 is later.

19 (B) ~~The person has not been convicted of a felony arising out of a~~
20 ~~new incident or occurrence in the last seven years. [Repealed.]~~

1 (C) ~~The person has not been convicted of a misdemeanor during the~~
2 ~~past five years.~~ [Repealed.]

3 (D) Any restitution and surcharges ordered by the court for any crime
4 of which the person has been convicted has been paid in full, provided that
5 payment of surcharges shall not be required if the surcharges have been waived
6 by the court pursuant to section 7282 of this title.

7 (E) After considering the particular nature of any subsequent offense,
8 the court finds that ~~expungement~~ sealing of the criminal history record for the
9 qualifying crime serves the interests of justice.

10 (2) ~~The court shall grant the petition and order that all or part of the~~
11 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
12 ~~conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met~~
13 ~~and the court finds that:~~

14 (A) ~~sealing the criminal history record better serves the interests of~~
15 ~~justice than expungement; and~~

16 (B) ~~the person committed the qualifying crime after reaching 19 years~~
17 ~~of age.~~ A criminal history record sealed pursuant to this subsection (c) shall be
18 eligible for expungement pursuant to section 7606 of this title five years after
19 the date on which the sealing order is issued if the person does not commit any
20 criminal offense subsequent to the sealed offense.

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

2 (A) the person has only one conviction of a violation of 23 V.S.A.
3 § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

4 (B) the person has not been convicted of a ~~crime arising out of a new~~
5 ~~incident or occurrence~~ subsequent offense since the person was convicted of a
6 violation of 23 V.S.A. § 1201(a).

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

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

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

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

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

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

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

7 (i) Qualifying felony property offenses and selling, dispensing, or
8 transporting regulated substances offenses. For petitions filed to expunge or
9 seal a criminal history record of a qualifying felony property offense or a
10 violation of 18 V.S.A. § 4230(b), 4231(b), 4232(b), 4233(b), 4234(b),
11 4234a(b), 4234b(b), 4235(c), or 4235a(b):

12 (1) The court shall grant the petition and order that the criminal history
13 record be sealed pursuant to section 7607 of this title if the following
14 conditions are met:

15 (A) At least eight years have elapsed since:

16 (i) the date on which the person satisfied the judgment for the
17 conviction; or

18 (ii) if the person committed a subsequent offense, the date on
19 which the person satisfied the judgment for the subsequent offense, whichever
20 is later.

1 (B) Any restitution ordered by the court for any crime of which the
2 person has been convicted has been paid in full.

3 (C) After considering the particular nature of any subsequent offense,
4 the court finds that sealing of the criminal history record for the qualifying
5 crime serves the interests of justice.

6 (2) A criminal history record sealed pursuant to this subsection (i) shall
7 be eligible for expungement pursuant to section 7606 of this title eight years
8 after the date on which the sealing order is issued if the person does not
9 commit any criminal offense subsequent to the sealed offense.

10 (3) If the respondent stipulates to a petition filed on or after the date the
11 offense is eligible for sealing as provided in this subsection, the court may
12 grant the petition to seal or expunge without a hearing.

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

14 § 7607. EFFECT OF SEALING

15 (a) Order and notice. Upon entry of an order to seal, the order shall be
16 legally effective immediately and the person whose record is sealed shall be
17 treated in all respects as if he or she had never been arrested, convicted, or
18 sentenced for the offense and that its effect is to annul the record of arrest,
19 conviction, and sentence. The court shall provide notice of the sealing to the
20 respondent, Vermont Crime Information Center (VCIC), the arresting agency,
21 and any other entity that may have a record related to the order to seal. The

1 court shall also make a reasonable effort to notify the person whose record is
2 sealed that, pursuant to section 7602 of this title, he or she may be eligible for a
3 subsequent expungement after a required waiting period. “Reasonable effort”
4 means attempting to **notify the person by electronic means** or first-class mail at
5 the person’s last known address. The VCIC shall provide notice of the sealing
6 to the Federal Bureau of Investigation’s National Crime Information Center.

7 * * *

8 Sec. 6. 33 V.S.A. § 5119 is amended to read:

9 § 5119. SEALING OF RECORDS

10 * * *

11 (e)(1) Except as provided in subdivision (2) of this subsection, upon the
12 entry of an order sealing such files and records under this section, the
13 proceedings in the matter ~~under this act~~ shall be considered never to have
14 occurred, all general index references ~~thereto~~ to the sealed record shall be
15 deleted, and the person, the court, and law enforcement officers and
16 departments shall reply to any request for information that no record exists
17 with respect to such person upon inquiry in any matter. Copies of the order
18 shall be sent to each agency or official named in the order.

19 (2)(A) Any court, agency, or department that seals a record pursuant to
20 an order under this section may keep a special index of files and records that
21 have been sealed. This index shall only list the name and date of birth of the

1 subject of the sealed files and records and the docket number of the proceeding
2 ~~which~~ that was the subject of the sealing. The special index shall be
3 confidential and may be accessed only for purposes for which a department or
4 agency may request to unseal a file or record pursuant to subsection (f) of this
5 section.

6 (B) Access to the special index shall be restricted to the following
7 persons:

8 (i) the commissioner and general counsel of any administrative
9 department;

10 (ii) the secretary and general counsel of any administrative
11 agency;

12 (iii) a sheriff;

13 (iv) a police chief;

14 (v) a State's Attorney;

15 (vi) the Attorney General;

16 (vii) the Director of the Vermont Crime Information Center; and

17 (viii) a designated clerical staff person in each office identified in
18 subdivisions (i)–(vii) of this subdivision (B) who is necessary for establishing
19 and maintaining the indices for persons who are permitted access.

1 (C) Persons authorized to access an index pursuant to subdivision (B)
2 of this subdivision (2) may access only the index of their own department or
3 agency.

4 * * *

5 (g) On application of a person who has pleaded guilty to or has been
6 convicted of the commission of a crime under the laws of this State ~~which that~~
7 the person committed prior to attaining ~~the age of 21~~ 25 years of age, or on the
8 motion of the court having jurisdiction over such a person, after notice to all
9 parties of record and hearing, the court shall order the sealing of all files and
10 records related to the proceeding if it finds:

11 (1) two years have elapsed since the final discharge of the person;

12 (2) the person has not been convicted of a listed crime as defined in
13 13 V.S.A. § 5301 or adjudicated delinquent for such an offense ~~after the initial~~
14 ~~conviction~~ for 10 years prior to the application or motion, and no new
15 proceeding is pending seeking such conviction or adjudication; and

16 (3) the person's rehabilitation has been attained to the satisfaction of the
17 court.

18 * * *

1 Sec. 7. 23 V.S.A. § 2303 is added to read:

2 § 2303. EXPUNGEMENT OF VIOLATION RECORDS

3 (a) Expungement. Two years following the satisfaction of a judgment
4 resulting from an adjudication or conviction of a violation identified in this
5 subsection the Judicial Bureau shall make an entry of “expunged” and notify
6 the Department of Motor Vehicles of such action consistent with the data
7 transfer policy between the Judicial Bureau and the Department. The data
8 transfer to the Department shall include the name, date of birth, ticket number,
9 offense, license number, and personal identifying number. The Judicial
10 Bureau shall make the expungement entry pursuant to this section for the
11 following violations:

12 (1) section 301 of this title (operating an unregistered vehicle);

13 (2) subsection 307(a) of this title (failing to possess registration);

14 (3) section 611 of this title (failing to possess license);

15 (4) subsection 676(a) of this title (operating after suspension);

16 (5) section 601 of this title (operating without a license);

17 (6) section 800 of this title (operating without insurance); and

18 (7) subsection 1222(c) of this title (operating an uninspected vehicle).

19 (b) Effect of expungement.

20 (1) Upon entry of an expungement order, the order shall be legally
21 effective immediately and the individual whose record is expunged shall be

1 treated in all respects as if he or she had never been convicted or adjudicated of
2 the violation. This includes the expungement of any points accumulated
3 pursuant to chapter 25 of this title.

4 (2) Upon an entry of expunged, the case will be accessible only by the
5 Clerk of the Court for the Judicial Bureau or the Clerk’s designee. Convictions
6 or adjudications that have been expunged shall not appear in the results of any
7 Judicial Bureau database search by name, date of birth, driver’s license
8 number, or any other data identifying the defendant. Except as provided in
9 subsection (c) of this section, any documents or other records related to an
10 expunged conviction or adjudication that are maintained outside the Judicial
11 Bureau’s case management system shall be destroyed.

12 (3) Upon receiving an inquiry from any person regarding an expunged
13 record, the Judicial Bureau and Department of Motor Vehicles shall respond
14 that “NO RECORD EXISTS.”

15 (c) Exception for research entities. Research entities that maintain
16 conviction or adjudication records for purposes of collecting, analyzing and
17 disseminating criminal justice data shall not be subject to the expungement
18 requirements established in this section. Research entities shall abide by the
19 policies established by the Court Administrator and shall not disclose any
20 identifying information from the records they maintain.

1 (d) Policies for implementation. The Court Administrator shall establish
2 policies for implementing this section.

3 Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
4 EXPUNGEMENT AND SEALING STUDY

5 During the 2021 legislative interim, the Joint Legislative Justice Oversight
6 Committee shall consider how to simplify and automate the process of
7 expungement and sealing of criminal history records and develop a
8 comprehensive policy that provides an avenue for expungement or sealing of
9 all offenses except those listed in 33 V.S.A. § 5204(a) shall consider all
10 qualifying misdemeanors and whether to exclude any from sealing and
11 expungement eligibility, in particular those misdemeanors associated with and
12 resulting from domestic and sexual violence. The Committee shall propose
13 legislation for the 2022 legislative session on its recommendations regarding:

14 (1) a policy to make all criminal history records eligible for sealing or
15 expungement, except for records of convictions of the offenses listed in 33
16 V.S.A. § 5204(a);

17 (2) the individuals or entities that should have access to sealed criminal
18 history records;

19 (3) whether Vermont should continue to employ a two-track system that
20 provides for sealing or expungement of criminal history records based on the

1 nature of the offense, or whether Vermont should employ a one-track system
2 that provides for either sealing or expungement for all eligible offenses;
3 (4) implementing an automated process, not requiring a petition, to seal
4 and expunge criminal conviction records that provides for notice to the
5 prosecuting office and an opportunity for the prosecutor to oppose the sealing
6 or expungement.

7 Sec. 9. EFFECTIVE DATE

8 This act shall take effect on July 1, 2021.

9

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11

12

13 (Committee vote: _____)

14

15

Representative _____

16

FOR THE COMMITTEE