



Testimony on S.7 - Sealing and Expungement of Criminal History Records
House Committee on Judiciary
Chris Fenno, Executive Director
March 23, 2021

Thank you for inviting the Center to offer comment on S.7. We support this bill, as it ensures that payment of restitution remains as a condition before sealing or expungement is granted.

I would like to walk through some of the criminal justice reform efforts in which we have engaged and the right to restitution through our Restitution Unit.

Criminal Justice Reform Efforts

The Center has actively engaged in criminal justice reform conversations for many years. Crime victims and criminal defendants share many of the same needs, especially access to housing, jobs, mental and behavioral health services, affordable childcare, and timely, trauma-informed dispositions in criminal cases. The Center supports proposals that are informed by evidence-based practices, ensure access to adequate community resources, and demonstrate the potential to reduce recidivism, improve public safety, and heal trauma in communities.

Policies on criminal record sealing and expungement have tremendous consequences for criminal defendants, crime victims, and the public at large. The Center is hopeful that this bill strikes a reasonable balance to support the needs and interests of all concerned, both in the short- and long-term.

The Right to Restitution

The Restitution Unit of CCVS is responsible for enforcing Restitution Judgment Orders (RJOs) on behalf of victims and helping them access the Crime Victims Restitution Special Fund where eligible. An RJO is the portion of a criminal sentence requiring the defendant to repay uninsured financial losses caused by the crime.

Although many RJOs only concern repayment to individual or business victims, plenty of orders also concern repayment to state agencies or to the Victims Compensation Special Fund for financial losses advanced to victims prior to conviction. Every criminal defendant has an opportunity to be heard and to contest the amount of restitution claimed at a restitution hearing prior to the

issuance of an RJO. Vermont law does not allow courts to order defendants to pay arbitrary restitution amounts as a form of punishment.

Six full-time Restitution Case Managers at CCVS work with approximately 5,500 offenders who currently owe restitution. They make efforts to locate and contact every offender on their caseloads at least once each month, provide information about job programs and support services, and help offenders understand the role of repaying the victim in their own rehabilitation. Repairing financial harm is a point of pride for many offenders on the RU caseload.

The opportunity for sealing and/or expungement is a major incentive to pay restitution in full, so long as the Title 13, Chapter 230 requirements concerning sealing and expungement are properly applied. Restitution is not enforceable without evidence of a conviction, plea agreement, or diversion contract to provide a basis for the amount owed. When sealing or expungement are granted despite an offender's failure to pay restitution in full, the victim and/or the state are left with nothing to pursue. Currently, court staff do make efforts to contact the RU to confirm that sealing and expungement petitioners do not owe restitution prior to granting these orders. The introduced bill has appropriately factored these considerations by retaining the requirement that restitution is paid in full.

Thank you considering these comments.