

Testimony on S.7-Sealing and Expungement of Criminal Records
Joint Justice Oversight Committee
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Thank you for the opportunity for the VT Center for Crime Victim Services to testify on S.7. My name is Michelle Pelletier. I am the Restitution Unit Manager.

Background

By statute, the Vermont Center for Crime Victim Services is charged with promoting the rights and needs of crime victims statewide. The Center has actively engaged in statewide criminal justice reform conversations. The Center understands the barriers that criminal records can have on basic needs, such as housing and employment, and appreciates the positive impact that sealing and expunging records could have on the lives of criminal defendants.

Impact of S.7

I would like to outline our concerns on how S.7 could impact Restitution, Victim's Compensation, and crime victims/survivors.

Restitution

The Restitution Unit of the Center is responsible for collecting, dispersing, and enforcing Restitution Judgment Orders on behalf of crime victims. We also help them access the Restitution Special Fund when eligible. Restitution not only plays an important role for the victim, but it also aids in the criminal defendant's own rehabilitation - many criminal defendants take pride in repairing the financial harm they have done.

Records should only be sealed or expunged after the restitution order is fully satisfied. The opportunity for sealing and/or expunging records is a major incentive for criminal defendants to pay their restitution in full. If sealing or expungement is granted despite an offender's failure to pay restitution in full, the victim or the state is left with nothing to pursue. In addition, in essence, victims of offenders whose records are sealed or expunged are not afforded the same rights to restitution as victims of offenders whose case has not been sealed or expunged.

Victim's Compensation Program

The Victim's Compensation Program of C CVS is responsible for paying eligible crime-related losses to victims who have experienced an uninsured financial loss as a direct result of a crime. A victim is required to submit a Victim Compensation application to the Program and shall be eligible for Compensation if a law enforcement official has filed a report concluding that a crime was committed which resulted in the injury or death of the victim.

When a crime occurs involving a victim, and the Compensation Program has an eligible application on file to include documentation from law enforcement concluding that the crime occurred (usually an affidavit of probable cause) the victim remains eligible for Compensation benefits even if a case is expunged or sealed. However, if a victim applies to the Compensation Program after the case is expunged or sealed, the victim would not be found eligible for Victim's Compensation. The Program would not be able to obtain the law enforcement report of probable cause.

Therefore, those records should still be available to the Program so that the victim could be compensated. As with restitution, victims of offenders with expunged or sealed records are not afforded the same right to Compensation benefits and services as victims of offenders whose cases are not expunged or sealed.

Crime Victims

Expungement or sealing of a record can be very traumatic to a victim - the record of the crime is destroyed and no longer exists for the offender, but it is very real for the victim.

Crime victims in Vermont are given the fundamental right to notification and to offer a statement in sealing and expungement proceedings. Crime victims have important perspective and can address relevant factors such as: has the offender shown remorse? Did the offender violate probation conditions that concerned the victim? Has the offender harassed the victim's family or partner? Or perhaps the victim wants to speak to the offender's rehabilitation. Any change to sealing or expungement procedures should not impact the victim's right to be notified and to be heard. We must not ignore or lose sight of crime victims when we are discussing criminal justice reform.