

No. 5. An act relating to diversion and expungement.

(H.28)

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

Sec. 1. 3 V.S.A. § 163(e) is amended to read:

(e)(1) Within 30 days after the two-year anniversary of a successful completion of juvenile diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the juvenile court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A)–(D) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of juvenile diversion by the participant ~~and the dismissal of the case by the State's Attorney;~~

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;

(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case ~~under a contract executed with the Restitution Unit.~~

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Sec. 2. 3 V.S.A. § 164(g) is amended to read:

(g)(1) Within 30 days after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. However, the court shall not order expungement if the participant does not satisfy each of subdivisions (A)–(D) of this subdivision.

The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of the adult diversion program by the participant ~~and the dismissal of the case by the State's Attorney;~~

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;

(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case ~~under a~~
~~contract executed with the Restitution Unit.~~

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Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date Governor signed bill: April 18, 2023