

1 H.28

2 Introduced by Representative LaLonde of South Burlington

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; diversion; expungement

6 Statement of purpose of bill as introduced: This bill proposes to permit the  
7 court to consider expungement of adult and juvenile criminal cases referred to  
8 diversion without the prosecutor dismissing the case beforehand. The bill also  
9 proposes to reaffirm that expungement is contingent upon successful payment  
10 of any restitution connected to the case.

11 An act relating to diversion and expungement

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

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

14 (e)(1) Within 30 days after the two-year anniversary of a successful  
15 completion of juvenile diversion, the court shall provide notice to all parties of  
16 record of the court's intention to order the expungement of all court files and  
17 records, law enforcement records other than entries in the juvenile court  
18 diversion program's centralized filing system, fingerprints, and photographs  
19 applicable to the proceeding. ~~However, the court shall not order expungement~~

1 ~~if the participant has not paid restitution pursuant to subdivision (D) of this~~  
2 subdivision. The court shall give the State's Attorney an opportunity for a  
3 hearing to contest the expungement of the records. The court shall expunge  
4 the records if it finds:

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

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

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

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

15 \* \* \*

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

17 (g)(1) Within 30 days after the two-year anniversary of a successful  
18 completion of adult diversion, the court shall provide notice to all parties of  
19 record of the court's intention to order the expungement of all court files and  
20 records, law enforcement records other than entries in the adult court diversion  
21 program's centralized filing system, fingerprints, and photographs applicable

1 ~~to the proceeding. However, the court shall not order expungement if the~~  
2 participant has not paid restitution pursuant to subdivision (D) of this  
3 subdivision. The court shall give the State's Attorney an opportunity for a  
4 hearing to contest the expungement of the records. The court shall expunge  
5 the records if it finds:

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

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

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

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

16 \* \* \*

17 Sec. 3. EFFECTIVE DATE

~~This act shall take effect on July 1, 2025.~~

*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.~~*

\* \* \*

*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.~~*

\* \* \*

*Sec. 3. EFFECTIVE DATE*

*This act shall take effect on July 1, 2023.*