

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 28  
3 entitled “An act relating to diversion and expungement” respectfully reports  
4 that it has considered the same and recommends the bill be amended by  
5 striking out all after the enacting clause and inserting in lieu thereof the  
6 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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12 Sec. 3. EFFECTIVE DATE

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

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_  
Representative \_\_\_\_\_  
FOR THE COMMITTEE