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H.655

Introduced by Representatives Dolan of Essex Junction, Christie of Hartford,
LaLonde of South Burlington, and Rachelson of Burlington

Referred to Committee on

Date:

Subject: Crimes and criminal procedures; sealing criminal history records

Statement of purpose of bill as introduced: This bill proposes to expand the
list of offenses that may qualify for sealing upon petition, shift offenses that
are currently expungable to sealable, and make amendments to who may
access sealed criminal history records and under what circumstances.

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An act relating to qualifying offenses for sealing criminal history records
and access to sealed criminal history records

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

Sec. 1. 13 V.S.A. § 7601 is amended to read:

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§ 7601. DEFINITIONS

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As used in this chapter:

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(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an
individual’s contact with the criminal justice system, including data regarding

1 identification, arrest or citation, arraignment, judicial disposition, custody, and
2 supervision.

3 (3) ~~“Predicate offense” means a criminal offense that can be used to~~
4 ~~enhance a sentence levied for a later conviction and includes operating a~~
5 ~~vehicle under the influence of alcohol or other substance in violation of~~
6 ~~23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,~~
7 ~~and stalking in violation of section 1062 of this title. “Predicate offense” shall~~
8 ~~not include misdemeanor possession of cannabis, a disorderly conduct offense~~
9 ~~under section 1026 of this title, or possession of a controlled substance in~~
10 ~~violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a),~~
11 ~~4234b(a), 4235(b), or 4235a(a). [Repealed.]~~

12 (4) “Qualifying crime” means:

13 (A) ~~a misdemeanor offense that is not:~~

14 (i) ~~a listed crime as defined in subdivision 5301(7) of this title;~~

15 (ii) ~~an offense involving sexual exploitation of children in~~
16 ~~violation of chapter 64 of this title;~~

17 (iii) ~~an offense involving violation of a protection order in~~
18 ~~violation of section 1030 of this title;~~

19 (iv) ~~prostitution as defined in section 2632 of this title, or~~
20 ~~prohibited conduct under section 2601a of this title; or~~

21 (v) ~~a predicate offense;~~

1 ~~(B) a violation of subsection 3701(a) of this title related to criminal~~
2 ~~mischief;~~

3 ~~(C) a violation of section 2501 of this title related to grand larceny;~~

4 ~~(D) a violation of section 1201 of this title related to burglary,~~
5 ~~excluding any burglary into an occupied dwelling, as defined in subdivision~~
6 ~~1201(b)(2) of this title;~~

7 ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

8 ~~(F) a violation of section 1802 of this title related to uttering a forged~~
9 ~~or counterfeited instrument;~~

10 ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and~~
11 ~~cultivation of cannabis;~~

12 ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of~~
13 ~~cocaine;~~

14 ~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

15 ~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

16 ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of~~
17 ~~depressant, stimulant, and narcotic drugs;~~

18 ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of~~
19 ~~methamphetamine;~~

20 ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of~~
21 ~~ephedrine and pseudoephedrine;~~

1 ~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of~~
2 ~~hallucinogenic drugs;~~

3 ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of~~
4 ~~ecstasy; or~~

5 ~~(P) any offense for which a person has been granted an unconditional~~
6 ~~pardon from the Governor.~~

7 (A) all misdemeanor offenses except:

8 (i) a listed crime as defined in subdivision 5301(7) of this title;

9 (ii) a violation of chapter 64 of this title relating to sexual
10 exploitation of children;

11 (iii) a violation of section 1030 of this title relating to a violation
12 of an abuse prevention order, an order against stalking or sexual assault, or a
13 protective order concerning contact with a child;

14 (iv) a violation of chapter 28 of this title related to abuse, neglect,
15 and exploitation of a vulnerable adult;

16 (v) a violation of subsection 2605(b) or (c) of this title related to
17 voyeurism;

18 (vi) a violation of subdivisions 352(1)–(10) of this title related to
19 cruelty to animals;

20 (vii) a violation of section 1026a of this title related to aggravated
21 disorderly conduct;

1 (viii) a violation of section 3006 of this title related to neglect of
2 duty by a public officer;

3 (ix) a violation of section 5409 of this title related to failure to
4 comply with sex offender registry requirements;

5 (x) a violation of section 2802, 2802a, 2803, 2804, or 2804b of
6 this title related to obscenity;

7 (xi) a violation of section 1455 of this title related to hate
8 motivated crimes; and

9 (xii) a violation of section 1456 of this title related to burning of a
10 religious symbol; and

11 (B) the following felonies:

12 (i) a violation of section 1201 of this title related to burglary,
13 excluding any burglary into an occupied dwelling, unless the person was
14 25 years of age or younger at the time of the offense and did not carry a
15 dangerous or deadly weapon during the commission of the offense;

16 (ii) designated felony property offenses as defined in subdivision
17 (5) of this section;

18 (iii) offenses relating to possessing, cultivating, selling,
19 dispensing, or transporting regulated drugs, including violations of 18 V.S.A.
20 § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a),

1 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or
2 4235a(a) and (b); and

3 (iv) any offense for which a person has been granted an
4 unconditional pardon from the Governor.

5 (5) “Designated felony property offense” means:

6 (A) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of
7 a credit card;

8 (B) section 1801 of this title related to forgery and counterfeiting;

9 (C) section 1802 of this title related to uttering a forged or
10 counterfeited instrument;

11 (D) section 1804 of this title related to counterfeiting paper money;

12 (E) section 1816 of this title related to possession or use of credit
13 card skimming devices;

14 (F) section 2001 of this title related to false personation;

15 (G) section 2002 of this title related to false pretenses or tokens;

16 (H) section 2029 of this title related to home improvement fraud;

17 (I) section 2030 of this title related to identity theft;

18 (J) section 2501 of this title related to grand larceny;

19 (K) section 2531 of this title related to embezzlement;

20 (L) section 2532 of this title related to embezzlement by officers or
21 servants of an incorporated bank;

1 (M) section 2533 of this title related to embezzlement by a receiver
2 or trustee;

3 (N) section 2561 of this title related to receiving stolen property;

4 (O) section 2575 of this title related to retail theft;

5 (P) section 2582 of this title related to theft of services;

6 (Q) section 2591 of this title related to theft of rented property;

7 (R) section 2592 of this title related to failure to return a rented or
8 leased motor vehicle;

9 (S) section 3016 of this title related to false claims;

10 (T) section 3701 of this title related to unlawful mischief;

11 (U) section 3705 of this title related to unlawful trespass;

12 (V) section 3733 of this title related to mills, dams, or bridges;

13 (W) section 3761 of this title related to unauthorized removal of
14 human remains;

15 (X) section 3766 of this title related to grave markers and ornaments;

16 (Y) chapter 87 of this title related to computer crimes; and

17 (Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a
18 regulated drug.

19 (6) “Subsequent offense” means the conviction of a crime committed by
20 the person who is the subject of a petition to seal a criminal history record that

1 arose out of a new incident or occurrence after the person was convicted of the
2 crime to be sealed.

3 Sec. 2. 13 V.S.A. § 7602 is amended to read:

4 § 7602. ~~EXPUNGEMENT AND SEALING OF RECORD,~~
5 ~~POSTCONVICTION; PROCEDURE~~

6 ~~(a)(1) A person may file a petition with the court requesting expungement~~
7 ~~or sealing of the criminal history record related to the conviction if:~~

8 ~~(A) the person was convicted of a qualifying crime or qualifying~~
9 ~~crimes arising out of the same incident or occurrence;~~

10 ~~(B) the person was convicted of an offense for which the underlying~~
11 ~~conduct is no longer prohibited by law or designated as a criminal offense;~~

12 ~~(C) pursuant to the conditions set forth in subsection (g) of this~~
13 ~~section, the person was convicted of a violation of 23 V.S.A. § 1201(a) or~~
14 ~~§ 1091 related to operating under the influence of alcohol or other substance,~~
15 ~~excluding a violation of those sections resulting in serious bodily injury or~~
16 ~~death to any person other than the operator, or related to operating a school bus~~
17 ~~with a blood alcohol concentration of 0.02 or more or operating a commercial~~
18 ~~vehicle with a blood alcohol concentration of 0.04 or more; or~~

19 ~~(D) pursuant to the conditions set forth in subsection (h) of this~~
20 ~~section, the person was convicted under 1201(c)(3)(A) of a violation of~~
21 ~~subdivision 1201(a) of this title related to burglary when the person was~~

1 ~~25 years of age or younger, and the person did not carry a dangerous or deadly~~
2 ~~weapon during commission of the offense.~~

3 ~~(2) The State's Attorney or Attorney General shall be the respondent in~~
4 ~~the matter.~~

5 ~~(3) The court shall grant the petition without hearing if the petitioner~~
6 ~~and the respondent stipulate to the granting of the petition. The respondent~~
7 ~~shall file the stipulation with the court, and the court shall issue the petitioner~~
8 ~~an order of expungement and provide notice of the order in accordance with~~
9 ~~this section.~~

10 ~~(4) This section shall not apply to an individual licensed as a~~
11 ~~commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge~~
12 ~~a record of a conviction for a felony offense committed in a motor vehicle as~~
13 ~~defined in 23 V.S.A. § 4.~~

14 ~~(b)(1) The court shall grant the petition and order that the criminal history~~
15 ~~record be expunged pursuant to section 7606 of this title if the following~~
16 ~~conditions are met:~~

17 ~~(A) At least five years have elapsed since the date on which the~~
18 ~~person successfully completed the terms and conditions of the sentence for the~~
19 ~~conviction, or if the person has successfully completed the terms and~~
20 ~~conditions of an indeterminate term of probation that commenced at least five~~
21 ~~years previously.~~

1 ~~(B) The person has not been convicted of a crime arising out of a new~~
2 ~~incident or occurrence since the person was convicted for the qualifying crime.~~

3 ~~(C) Any restitution and surcharges ordered by the court have been~~
4 ~~paid in full, provided that payment of surcharges shall not be required if the~~
5 ~~surcharges have been waived by the court pursuant to section 7282 of this title.~~

6 ~~(D) The court finds that expungement of the criminal history record~~
7 ~~serves the interests of justice.~~

8 ~~(2) The court shall grant the petition and order that all or part of the~~
9 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
10 ~~conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and~~
11 ~~the court finds that:~~

12 ~~(A) sealing the criminal history record better serves the interests of~~
13 ~~justice than expungement; and~~

14 ~~(B) the person committed the qualifying crime after reaching 19~~
15 ~~years of age.~~

16 ~~(c)(1) The court shall grant the petition and order that the criminal history~~
17 ~~record be expunged pursuant to section 7606 of this title if the following~~
18 ~~conditions are met:~~

19 ~~(A) At least 10 years have elapsed since the date on which the person~~
20 ~~successfully completed the terms and conditions of the sentence for the~~
21 ~~conviction.~~

1 ~~(B) The person has not been convicted of a felony arising out of a~~
2 ~~new incident or occurrence in the last seven years.~~

3 ~~(C) The person has not been convicted of a misdemeanor during the~~
4 ~~past five years.~~

5 ~~(D) Any restitution and surcharges ordered by the court for any crime~~
6 ~~of which the person has been convicted has been paid in full, provided that~~
7 ~~payment of surcharges shall not be required if the surcharges have been waived~~
8 ~~by the court pursuant to section 7282 of this title.~~

9 ~~(E) After considering the particular nature of any subsequent offense,~~
10 ~~the court finds that expungement of the criminal history record for the~~
11 ~~qualifying crime serves the interests of justice.~~

12 ~~(2) The court shall grant the petition and order that all or part of the~~
13 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
14 ~~conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met~~
15 ~~and the court finds that:~~

16 ~~(A) sealing the criminal history record better serves the interests of~~
17 ~~justice than expungement; and~~

18 ~~(B) the person committed the qualifying crime after reaching 19~~
19 ~~years of age.~~

20 ~~(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section,~~
21 ~~unless the court finds that expungement would not be in the interests of justice,~~

1 the court shall grant the petition and order that the criminal history record be
2 expunged in accordance with section 7606 of this title if the following
3 conditions are met:

4 (1) The petitioner has completed any sentence or supervision for the
5 offense.

6 (2) Any restitution and surcharges ordered by the court have been paid
7 in full, provided that payment of surcharges shall not be required if the
8 surcharges have been waived by the court pursuant to section 7282 of this title.

9 (e) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a
10 conviction for possession of a regulated drug under 18 V.S.A. chapter 84,
11 subchapter 1 in an amount that is no longer prohibited by law or for which
12 criminal sanctions have been removed:

13 (1) The petitioner shall bear the burden of establishing that his or her
14 conviction was based on possessing an amount of regulated drug that is no
15 longer prohibited by law or for which criminal sanctions have been removed.

16 (2) There shall be a rebuttable presumption that the amount of the
17 regulated drug specified in the affidavit of probable cause associated with the
18 petitioner's conviction was the amount possessed by the petitioner.

19 (f) Prior to granting an expungement or sealing under this section for
20 petitions filed pursuant to subdivision 7601(4)(D) of this title, the court shall
21 make a finding that the conduct underlying the conviction under section 1201

1 ~~of this title did not constitute a burglary into an occupied dwelling, as defined~~
2 ~~in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of~~
3 ~~establishing this fact.~~

4 ~~(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only~~
5 ~~petitions to seal may be considered or granted by the court. This subsection~~
6 ~~shall not apply to an individual licensed as a commercial driver pursuant to~~
7 ~~23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the~~
8 ~~interests of justice, the court shall grant the petition and order that the criminal~~
9 ~~history record be sealed in accordance with section 7607 of this title if the~~
10 ~~following conditions are met:~~

11 ~~(1) At least 10 years have elapsed since the date on which the person~~
12 ~~successfully completed the terms and conditions of the sentence for the~~
13 ~~conviction, or if the person has successfully completed the terms and~~
14 ~~conditions of an indeterminate term of probation that commenced at least~~
15 ~~10 years previously.~~

16 ~~(2) At the time of the filing of the petition:~~

17 ~~(A) the person has only one conviction of a violation of 23 V.S.A.~~
18 ~~§ 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and~~

19 ~~(B) the person has not been convicted of a crime arising out of a new~~
20 ~~incident or occurrence since the person was convicted of a violation of~~
21 ~~23 V.S.A. § 1201(a).~~

1 ~~(3) Any restitution ordered by the court has been paid in full.~~

2 ~~(4) The court finds that sealing of the criminal history record serves the~~
3 ~~interests of justice.~~

4 ~~(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section,~~
5 ~~unless the court finds that expungement or sealing would not be in the interests~~
6 ~~of justice, the court shall grant the petition and order that the criminal history~~
7 ~~record be expunged or sealed in accordance with section 7606 or 7607 of this~~
8 ~~title if the following conditions are met:~~

9 ~~(1) At least 15 years have elapsed since the date on which the person~~
10 ~~successfully completed the terms and conditions of the sentence for the~~
11 ~~conviction, or the person has successfully completed the terms and conditions~~
12 ~~of an indeterminate term of probation that commenced at least 15 years~~
13 ~~previously.~~

14 ~~(2) The person has not been convicted of a crime arising out of a new~~
15 ~~incident or occurrence since the person was convicted of a violation of~~
16 ~~subdivision 1201(c)(3)(A) of this title.~~

17 ~~(3) Any restitution ordered by the court has been paid in full.~~

18 ~~(4) The court finds that expungement or sealing of the criminal history~~
19 ~~record serves the interests of justice.~~

20 (a) Petition.

1 (1) A person may file a petition with the court requesting sealing of a
2 criminal history record related to a conviction under the following
3 circumstances:

4 (A) The person was convicted of an offense for which the underlying
5 conduct is no longer prohibited by law or designated as a criminal offense.

6 (B) The person was convicted of a qualifying crime or qualifying
7 crimes arising out of the same incident or occurrence.

8 (2) The State's Attorney or Attorney General shall be the respondent in
9 the matter.

10 (3) The court shall grant the petition without hearing if the petitioner
11 and the respondent stipulate to the granting of the petition. The respondent
12 shall file the stipulation with the court, and the court shall issue the petitioner
13 an order of sealing and provide notice of the order in accordance with this
14 section.

15 (4) This section shall not apply to an individual licensed as a
16 commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal a record of
17 a conviction for a felony offense committed in a motor vehicle as defined in
18 23 V.S.A. § 4.

19 (b) Offenses that are no longer prohibited by law.

1 (1) For petitions filed pursuant to subdivision (a)(1)(A) of this section,
2 the court shall grant the petition and order that the criminal history record be
3 sealed if the following conditions are met:

4 (A) The petitioner has completed any sentence or supervision for the
5 offense.

6 (B) Any restitution and surcharges ordered by the court have been
7 paid in full, provided that payment of surcharges shall not be required if the
8 surcharges have been waived by the court pursuant to section 7282 of this title.

9 (2) For petitions filed pursuant to subdivision (a)(1)(A) of this section
10 for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84,
11 subchapter 1 in an amount that is no longer prohibited by law or for which
12 criminal sanctions have been removed:

13 (A) The petitioner shall bear the burden of establishing that the
14 petitioner's conviction was based on possessing an amount of regulated drug
15 that is no longer prohibited by law or for which criminal sanctions have been
16 removed.

17 (B) There shall be a rebuttable presumption that the amount of the
18 regulated drug specified in the affidavit of probable cause associated with the
19 petitioner's conviction was the amount possessed by the petitioner.

20 (c) Qualifying misdemeanors. For petitions filed to seal a qualifying
21 misdemeanor pursuant to subdivision (a)(1)(B) of this section, the court shall

1 grant the petition and order that the criminal history record be sealed if the
2 following conditions are met:

3 (1) At least three years have elapsed since the date on which the person
4 satisfied the judgement.

5 (2) Any restitution and surcharges ordered by the court for any crime of
6 which the person has been convicted has been paid in full, provided that
7 payment of surcharges shall not be required if the surcharges have been waived
8 by the court pursuant to section 7282 of this title.

9 (3) The court finds that sealing of the criminal history record serves the
10 interests of justice.

11 (d) Qualifying felony offenses. For petitions filed to seal a qualifying
12 felony pursuant to subdivision (a)(1)(B) of this section, the court shall grant the
13 petition and order that the criminal history record be sealed if the following
14 conditions are met:

15 (1) At least seven years have elapsed since the date on which the person
16 satisfied the judgement.

17 (2) Any restitution and surcharges ordered by the court for any crime of
18 which the person has been convicted has been paid in full, provided that
19 payment of surcharges shall not be required if the surcharges have been waived
20 by the court pursuant to section 7282 of this title.

1 (3) The court finds that sealing of the criminal history record serves the
2 interests of justice.

3 (e) Qualifying DUI misdemeanor. For petitions filed to seal a qualifying
4 DUI misdemeanor pursuant to subdivision (a)(1)(B) of this section, the court
5 shall grant the petition and order that the criminal history record be sealed if
6 the following conditions are met:

7 (1) At least 10 years have elapsed since the date on which the person
8 satisfied the judgment for the conviction.

9 (2) At the time of the filing of the petition:

10 (A) the person has only one conviction of a violation of 23 V.S.A.
11 § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

12 (B) the person has not been convicted of a subsequent offense since
13 the person was convicted of a violation of 23 V.S.A. § 1201(a).

14 (3) Any restitution and surcharges ordered by the court for any crime of
15 which the person has been convicted has been paid in full, provided that
16 payment of surcharges shall not be required if the surcharges have been waived
17 by the court pursuant to section 7282 of this title.

18 (4) The court finds that sealing of the criminal history record serves the
19 interests of justice.

1 Sec. 3. 13 V.S.A. § 7604 is amended to read:

2 § 7604. NEW CHARGE

3 If a person is charged with a criminal offense after ~~he or she~~ the person has
4 filed a petition for ~~expungement~~ sealing pursuant to this chapter, the court shall
5 not act on the petition until disposition of the new charge.

6 Sec. 4. 13 V.S.A. § 7605 is amended to read:

7 § 7605. DENIAL OF PETITION

8 If a petition for ~~expungement~~ sealing is denied by the court pursuant to this
9 chapter, no further petition shall be brought for at least two years, unless a
10 shorter duration is authorized by the court.

11 Sec. 5. 13 V.S.A. § 7607 is amended to read:

12 § 7607. EFFECT OF SEALING

13 (a) Order and notice. Upon entry of an order to seal, the order shall be
14 legally effective immediately and the person whose record is sealed shall be
15 treated in all respects as if the person had never been arrested, convicted, or
16 sentenced for the offense and that its effect is to annul the record of arrest,
17 conviction, and sentence. The court shall provide notice of the sealing to the
18 respondent, Vermont Crime Information Center (VCIC), the arresting agency,
19 the Restitution Unit of the Vermont Center for Crime Victim Services, and any
20 other entity that may have a record related to the order to seal. ~~The VCIC shall~~

1 ~~provide notice of the sealing to the Federal Bureau of Investigation's National~~
2 ~~Crime Information Center.~~

3 (b) Effect.

4 (1) Except as provided in ~~subdivision~~ subsection (c) of this section,
5 upon entry of a sealing order, the order shall be legally effective immediately
6 and the person whose record is sealed shall be treated in all respects as if ~~he or~~
7 ~~she~~ the person had never been arrested, convicted, or sentenced for the offense.

8 (2) In any application for employment, license, or civil right or privilege
9 or in an appearance as a witness in any proceeding or hearing, a person may be
10 required to answer questions about a previous criminal history record only with
11 respect to arrests or convictions that have not been sealed.

12 (3) The response to an inquiry from any member of the public regarding
13 a sealed record shall be that "NO CRIMINAL RECORD EXISTS."

14 (c) Exceptions; convictions. Notwithstanding any other provision of law or
15 a sealing order, entities may access sealed records only in the following
16 circumstances:

17 (1) An entity that possesses a sealed record may continue to use it for
18 any litigation or claim arising out of the same incident or occurrence ~~or~~
19 ~~involving the same defendant.~~

20 (2) A criminal justice agency as defined in 20 V.S.A. § 2056a and the
21 Attorney General may use the criminal history record sealed in accordance

1 with section 7602 or 7603 of this title without limitation for criminal justice
2 purposes as defined in 20 V.S.A. § 2056a. A sealed record of a prior violation
3 of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the
4 purpose of imposing an enhanced penalty for a subsequent violation of that
5 section, in accordance with the provisions of 23 V.S.A. § 1210. A person or a
6 court in possession of an order issued by a court regarding a matter that was
7 subsequently sealed may file or cite to that decision in any subsequent
8 proceeding. The party or court filing or citing to that decision shall ensure that
9 information regarding the identity of the defendant in the sealed record is
10 redacted.

11 (3) The Vermont Crime Information Center and Criminal Justice
12 Information Services Division of the Federal Bureau of Investigations shall
13 have access to sealed criminal history records without limitation for the
14 purpose of responding to queries to the National Instant Criminal Background
15 Check System regarding firearms transfers and attempted transfers.

16 (4) For sentencing in subsequent offenses, the court and parties in a
17 criminal case shall have access to sealed records without limitation.

18 (5) The Department of Corrections shall have access to sealed records
19 for the purpose of conducting risk assessments and making supervision
20 decisions as follows:

21 (A) misdemeanors for three years;

1 (B) qualifying DUI offenses for five years; and

2 (C) qualifying felony property offenses and selling, dispensing, or
3 transporting a regulated drug offenses for seven years.

4 (6) The State’s Attorney and Attorney General may disclose information
5 contained in a sealed criminal history record when required to meet their
6 otherwise legally required discovery obligations.

7 (7) Upon request, the Victims Compensation Program shall be provided
8 with a copy, redacted of all information identifying the offender, of the
9 affidavit for the sole purpose of verifying the expenses in a victim’s
10 compensation application submitted pursuant to section 5353 of this title.

11 (8) The sealing of a criminal record shall not affect the authority of the
12 Restitution Unit to enforce a restitution order in the same manner as a civil
13 judgment, pursuant to subdivision 5362(c)(2) of this title.

14 (d) Exceptions; dismissed charges. The prosecution shall have access to
15 cases dismissed without prejudice for three years. The prosecution may object
16 to the loss of access at three years by proving that the loss of access would
17 pose a “significant risk to public safety.”

18 (e) Process.

19 (1) The court shall bar viewing of the sealed offense in any accessible
20 database that it maintains.

1 (2) Until all charges on a docket have been sealed, the case file shall
2 remain publicly accessible.

3 (3) When all charges on a docket have been sealed, the case file shall
4 become exempt from public access.

5 ~~(e)~~(f) Special index.

6 (1) The court shall keep a special index of cases that have been sealed
7 together with the sealing order. The index shall list only the name of the
8 person convicted of the offense, ~~his or her~~ the person's date of birth, the docket
9 number, and the criminal offense that was the subject of the sealing.

10 (2) The special index and related documents specified in subdivision (1)
11 of this subsection shall be confidential and shall be physically and
12 electronically segregated in a manner that ensures confidentiality and that
13 limits access to authorized persons.

14 (3) Except as provided in ~~subsection~~ subsections (c) and (d) of this
15 section, inspection of the sealing order may be permitted only upon petition by
16 the person who is the subject of the case. The Chief Superior Judge may
17 permit special access to the index and the documents for research purposes
18 pursuant to the rules for public access to court records.

19 (4) The Court Administrator shall establish policies for implementing
20 this subsection.

1 ~~(f)~~(g) Victims Compensation Program. Upon request, the ~~Victim's~~ Victims
2 Compensation Program shall be provided with a copy, redacted of all
3 information identifying the offender, of the affidavit for the sole purpose of
4 verifying the expenses in a victim's compensation application submitted
5 pursuant to section 5353 of this title.

6 ~~(g)~~(h) Restitution. The sealing of a criminal record shall not affect the
7 authority of the Restitution Unit to enforce a restitution order in the same
8 manner as a civil judgment pursuant to subdivision 5362(c)(2) of this title.

9 Sec. 6. 24 V.S.A. § 2002 is added to read:

10 § 2002. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

11 (a) Expungement. Three years following the satisfaction of a judgment
12 resulting from an adjudication of a municipal violation, the Judicial Bureau
13 shall make an entry of "expunged" and notify the municipality of such action,
14 provided the person has not been adjudicated for any subsequent municipal
15 violations during that time. The data transfer to the municipality shall include
16 the name, date of birth, ticket number, and offense. Violations of offenses
17 adopted pursuant to chapter 117 of this title shall not be eligible for
18 expungement under this section.

19 (b) Effect of expungement.

20 (1) Upon entry of an expungement order, the order shall be legally
21 effective immediately and the individual whose record is expunged shall be

1 treated in all respects as if the individual had never been adjudicated of the
2 violation.

3 (2) Upon an entry of expunged, the case will be accessible only by the
4 Clerk of the Court for the Judicial Bureau or the Clerk's designee.
5 Adjudications that have been expunged shall not appear in the results of any
6 Judicial Bureau database search by name, date of birth, or any other data
7 identifying the defendant. Except as provided in subsection (c) of this section,
8 any documents or other records related to an expunged adjudication that are
9 maintained outside the Judicial Bureau's case management system shall be
10 destroyed.

11 (3) Upon receiving an inquiry from any person regarding an expunged
12 record, the Judicial Bureau and the municipality shall respond that "NO
13 RECORD EXISTS."

14 (c) Exception for research entities. Research entities that maintain
15 adjudication records for purposes of collecting, analyzing, and disseminating
16 criminal justice data shall not be subject to the expungement requirements
17 established in this section. Research entities shall abide by the policies
18 established by the Court Administrator and shall not disclose any identifying
19 information from the records they maintain.

20 (d) Policies for implementation. The Court Administrator shall establish
21 policies for implementing this section.

1 (A) which criminal offenses are appropriate for automatic sealing, the
2 time period in which those offenses become eligible for sealing, and any other
3 appropriate criteria; and

4 (B) the mechanism for automatic sealing and any resources required
5 for the proposal in subdivision (A) of this subdivision (c)(1).

6 (2) On or before November 15, 2024, the Committee shall submit
7 proposed legislation to the General Assembly.

8 (d) Assistance. For purposes of scheduling meetings and preparing
9 recommended legislation, the Committee shall have the assistance of the
10 Office of Legislative Operations, the Office of Legislative Counsel, and the
11 Joint Fiscal Office.

12 (e) Meetings.

13 (1) The Office of Legislative Counsel shall call the first meeting of the
14 Committee on or before August 1, 2024.

15 (2) The Committee shall select a chair from among its members at the
16 first meeting.

17 (3) A majority of the membership shall constitute a quorum.

18 (4) The Committee shall cease to exist on December 31, 2024.

19 (f) Compensation and reimbursement. For attendance at meetings during
20 adjournment of the General Assembly, a legislative member of the Committee
21 shall be entitled to per diem compensation and reimbursement of expenses

1 pursuant to 2 V.S.A. § 23 for not more than four meetings. These payments
2 shall be made from monies appropriated to the General Assembly.

3 Sec. 9. EFFECTIVE DATE

4 This act shall take effect on July 1, 2024.