



H. 655/H. 762 - Sealing of Records
House Judiciary Committee – February 22, 2024
Sarah Robinson, Deputy Director

Thank you for the opportunity to submit testimony on current legislative proposals on sealing. We thank the committee for your work on efforts to streamline and update sealing eligibility in Vermont.

The Vermont Network Against Domestic and Sexual Violence is generally supportive of practices for sealing and expunging criminal records that balance the positive impacts of these policies with protections for victims and survivors of crime. Once research shows that the predictive value of a record is no longer useful, sealing and/or expungement can remove barriers individuals face in their rehabilitation following a criminal conviction. These barriers can include lack of access to housing, education, employment, and even parental volunteer roles in school and community settings. In addition, some survivors of domestic and sexual violence have criminal records and/or are justice-involved. In these cases, sealing records is an important support to survivors who seek to build safety and choice in their lives.

Many of the expanded qualifying offenses included in H.655 have been considered by the legislature in previous sessions and were originally proposed to provide pathways forward for Vermonters in recovery from substance use disorder, following justice system involvement. Policies that support recovery and reintegration are particularly important for survivors of domestic and sexual violence. Numerous studies have demonstrated the link experiencing domestic and/or sexual violence and substance use disorder. Experiencing the trauma of domestic and/or sexual violence is a risk factor for substance use disorder and can also lead to increased severity of substance use disorder symptoms.¹ A history of surviving sexual and/or domestic violence is also associated with a risk of criminal legal system involvement and incarceration. In addition, at times survivors are coerced into criminal behavior as part of larger, ongoing patterns of abuse. This committee and the House recognized this dynamic in its passage of H.27 An act relating to coercive controlling behavior and abuse prevention orders. This occurs frequently for victims of trafficking. Balanced sealing and/or expungement policies can be restorative and life saving measures for survivors of domestic and sexual violence.

Qualifying Offenses

The Network generally supports the offense eligibility proposed in H.655, as we have during the legislature's consideration of qualifying crimes for expungement or sealing in past legislative sessions. This proposal excludes from eligibility important crimes related to domestic and sexual violence. As a full

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9912846/>



proposal, the qualifying offense eligibility provisions reflect significant stakeholder input spanning several years and detailed conversations that the Network has been grateful to participate in.

Effect of Sealing

We appreciate that this proposal continues to support access to sealed records for the Vermont Center for Crime Victim Services' Restitution Unit as well as a pathway for Victims' Compensation to request records. These provisions are important to the Network and the survivors we serve.

We also appreciate the bill's efforts to further clarify the process for access to sealed records in the FBI's National Instant Criminal Background Check System, with regards to firearms transfer. As the committee takes further testimony, we encourage you to seek input from the Vermont Crime Information Center on how the provisions in Section 5, 13 V.S.A. § 7607 (a) and (c)(3) will be operationalized. Specifically, it is important to ensure that no unintended consequences would result from striking the language regarding VCIC's obligation to provide notice to the FBI's National Crime Information Center, upon entry of an order to seal a record.

H.762 Proposal

We are able to comment readily on H.655 because many of the provisions in the bill as introduced are the product of extensive previous legislative and stakeholder debate, collaboration, and compromise, some of it produced over a period of many years. While we very much appreciate the concept of moving towards a single-track sealing-only approach, H.762 proposes significantly greater changes to current law, including a much broader list of offenses excluded from sealing eligibility, a more extensive petitioning process, new effects for witnesses to a case and increased access to sealed records for legal system stakeholders, employers, and more. Vetting these proposals for unintended consequences and impacts on survivors will require a great deal more time and stakeholder input, including from legal and service providers. This is especially important in light of our work with trafficking survivors, who often experience abuse and coercion related to criminal behaviors. We are deeply and especially concerned about the exceptions to sealing found in subsections 7, 8 and 9 on pages 25-26 of the bill which we think could all have detrimental impacts on victims of crime.

Automatic Sealing and Criminal Record Sealing Committee

The Network supports further exploration of automatic sealing processes for some offenses, to further reduce burdens on petitioners. Current law often requires that individuals know their criminal records are eligible for sealing or expungement in a changing statutory landscape. We would welcome and encourage the inclusion of language in section 8 that directs the Legislative Criminal Record Sealing



Committee to seek input from stakeholders about the impacts of their proposals on victims, survivors, and individuals with criminal records.