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H.566

An act relating to sealing post-charge court diversion records upon successful completion

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

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

§ 163. JUVENILE COURT DIVERSION PROGRAM

\* \* \*

(f) Records; deletion and ~~expungement~~ sealing.

\* \* \*

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

1 (A) two years have elapsed since the successful completion of the  
2 juvenile post-charge diversion program by the participant;

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

6 (C) the participant does not owe restitution related to the case.

7 (6) ~~Expungement of sealed records. The court may expunge any records~~  
8 ~~that were sealed pursuant to this subsection prior to July 1, 2018 unless the~~  
9 ~~State's Attorney's office that prosecuted the case objects. Thirty days prior to~~  
10 ~~expunging a record pursuant to this subdivision, the court shall provide written~~  
11 ~~notice of its intent to expunge the record to the State's Attorney's office that~~  
12 ~~prosecuted the case. [Repealed.]~~

13 (7) Post-charge diversion case index.

14 (A) The court and the Office of the Attorney General shall keep a  
15 special index of post-charge diversion cases that have been ~~expunged~~ sealed  
16 pursuant to this section together with the ~~expungement~~ sealing order. The  
17 index shall list only the name of the person convicted of the offense, the  
18 person's date of birth, the docket number, date of case closure, the court of  
19 jurisdiction, and the offense that was the subject of the ~~expungement~~ sealing.

20 (B) The special index and related documents specified in subdivision  
21 (A) of this subdivision (7) shall be confidential and shall be physically and

1 electronically segregated in a manner that ensures confidentiality and that  
2 limits access to authorized persons.

3 (C) Inspection of the ~~expungement~~ sealing order and the certificate  
4 may be permitted only upon petition by the person who is the subject of the  
5 case. The Chief Superior Judge may permit special access to the index and the  
6 documents for research purposes pursuant to the rules for public access to  
7 court records.

8 (D) The Court Administrator shall establish policies for  
9 implementing subdivisions (5)–(9) of this subsection (f).

10 (8) Effect of ~~expungement~~ sealing. ~~Except as otherwise provided in this~~  
11 ~~section, upon the entry of an order expunging files and records under this~~  
12 ~~section, the proceedings in the matter shall be considered never to have~~  
13 ~~occurred; all index references thereto shall be deleted; and the participant, the~~  
14 ~~court, law enforcement officers and departments, prosecutors, the referring~~  
15 ~~entity, and the diversion program shall reply to any request for information that~~  
16 ~~no record exists with respect to such participant inquiry in any matter. Copies~~  
17 ~~of the order shall be sent to each agency, entity, or official named therein~~  
18 Procedures for sealing, the effect of sealing, and access to sealed records shall  
19 be as provided in 13 V.S.A. § 7607.

20 (9) ~~Expungement~~ Sealing applicability. The process of automatically  
21 ~~expunging~~ sealing records as provided in this section shall only apply to those

1 persons who completed diversion on or after July 1, ~~2002~~ 2026. ~~Any person~~  
2 ~~who completed diversion prior to July 1, 2002 must apply to the court to have~~  
3 ~~the person's records expunged. Expungement~~ Sealing shall occur if the  
4 requirements of subdivisions (5)–(8) of this subsection (f) are met.

5 \* \* \*

6 Sec. 2. 3 V.S.A. § 164 is amended to read:

7 § 164. ADULT COURT DIVERSION PROGRAM

8 (a) Purpose.

9 (1) The Attorney General shall develop and administer an adult court  
10 diversion program, for both pre-charge and post-charge referrals, available in  
11 all counties.

12 (2) The program shall be designed to provide a restorative option for  
13 persons alleged to have caused harm in violation of a criminal statute or who  
14 have been charged with violating a criminal statute as well as for victims or  
15 those acting on a victim's behalf who have been allegedly harmed by the  
16 person referred to the program. The diversion program can accept referrals to  
17 the program as follows:

18 (A) Pre-charge by law enforcement or prosecutors pursuant to a  
19 policy adopted in accordance with subdivisions ~~(e)(1)–(2)~~ (c)(1) and (2) of this  
20 section.



1 adult court diversion program's centralized filing system applicable to the  
2 proceeding. However, the court shall not order ~~expungement~~ sealing if the  
3 participant does not satisfy each of subdivisions (A)–(C) of this subdivision.  
4 The court shall give the State's Attorney an opportunity for a hearing to contest  
5 the ~~expungement~~ sealing of the records. The court shall ~~expunge~~ seal the  
6 records if it finds:

7 (A) two years have elapsed since the successful completion of the  
8 adult post-charge diversion program by the participant;

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; and

12 (C) the participant does not owe restitution related to the case.

13 (6) ~~Expungement of sealed records. The court may expunge any records~~  
14 ~~that were sealed pursuant to this subsection prior to July 1, 2018 unless the~~  
15 ~~State's Attorney's office that prosecuted the case objects. Thirty days prior to~~  
16 ~~expunging a record pursuant to this subdivision, the court shall provide written~~  
17 ~~notice of its intent to expunge the record to the State's Attorney's office that~~  
18 ~~prosecuted the case. [Repealed.]~~

19 (7) Post-charge diversion case index.

20 (A) The court and the Office of the Attorney General shall keep a  
21 special index of post-charge diversion cases that have been ~~expunged~~ sealed

1 pursuant to this section together with the ~~expungement~~ sealing order. The  
2 index shall list only the name of the person convicted of the offense, the  
3 person's date of birth, the docket number, date of case closure, location of  
4 programming, and the criminal offense that was the subject of the  
5 ~~expungement~~ sealing.

6 (B) The special index and related documents specified in subdivision  
7 (A) of this subdivision (7) shall be confidential and shall be physically and  
8 electronically segregated in a manner that ensures confidentiality and that  
9 limits access to authorized persons.

10 (C) Inspection of the ~~expungement~~ sealing order and the certificate  
11 may be permitted only upon petition by the person who is the subject of the  
12 case. The Chief Superior Judge may permit special access to the index and the  
13 documents for research purposes pursuant to the rules for public access to  
14 court records.

15 (D) The Court Administrator shall establish policies for  
16 implementing subdivisions (5)–(9) of this subsection (f).

17 (8) Effect of ~~expungement~~ sealing. ~~Except as otherwise provided in this~~  
18 ~~section, upon the entry of an order expunging files and records under this~~  
19 ~~section, the proceedings in the matter shall be considered never to have~~  
20 ~~occurred; all index references thereto shall be deleted; and the participant, the~~  
21 ~~court, law enforcement officers and departments, prosecutors, the referring~~

1 ~~entity, and the diversion program shall reply to any request for information that~~  
2 ~~no record exists with respect to such participant inquiry in any matter. Copies~~  
3 ~~of the order shall be sent to each agency, entity, or official named therein~~  
4 Procedures for sealing, the effect of sealing, and access to sealed records shall  
5 be as provided in 13 V.S.A. § 7607.

6 (9) ~~Expungement~~ Sealing applicability. The process of automatically  
7 ~~expunging~~ sealing records as provided in this section shall only apply to those  
8 persons who completed diversion on or after July 1, ~~2002~~ 2026. ~~Any person~~  
9 ~~who completed diversion prior to July 1, 2002 must apply to the court to have~~  
10 ~~the person's records expunged. Expungement~~ Sealing shall occur if the  
11 requirements of this subsection are met.

12 \* \* \*

13 Sec. 3. BURLINGTON COMMUNITY JUSTICE CENTER; ADULT  
14 DIVERSION PILOT; CRIMINAL MUNICIPAL ORDINANCE  
15 VIOLATIONS

16 Notwithstanding the limitation in 3 V.S.A. § 164(a)(2) relating to  
17 restorative options for persons alleged to have caused harm in violation of a  
18 criminal statute or who have been charged with violating a criminal statute, the  
19 referral of criminal municipal ordinance violations to the Burlington  
20 Community Justice Center is authorized under 3 V.S.A. § 164 from January 1,  
21 2026, until July 1, 2027.

1       Sec. 4. EFFECTIVE DATES

2           (a) This section and Sec. 3 shall take effect on passage.

3           (b) Secs. 1 and 2 shall take effect on July 1, 2026.