

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 566
3 entitled “An act relating to sealing post-charge court diversion records upon
4 successful completion” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 § 163. JUVENILE COURT DIVERSION PROGRAM

9 * * *

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

11 * * *

12 (5) Post-charge diversion records ~~expungement~~ sealing. Within 30 days
13 after the two-year anniversary of a successful completion of post-charge
14 diversion, the court shall provide notice to all parties of record of the court’s
15 intention to order the ~~expungement~~ sealing of all court files and records, law
16 enforcement records, fingerprints, and photographs other than entries in the
17 court diversion program’s centralized filing system applicable to the
18 proceeding. However, the court shall not order ~~expungement~~ sealing if the
19 participant does not satisfy each of subdivisions (A)–(C) of this subdivision.

20 The court shall give the State’s Attorney an opportunity for a hearing to contest

1 the ~~expungement~~ sealing of the records. The court shall ~~expunge~~ seal the
2 records if it finds:

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

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

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

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 [Repealed.]~~

15 (7) Post-charge diversion case index.

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

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

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

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

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

* * *

§ 164. ADULT COURT DIVERSION PROGRAM

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

VT LEG #387130 v.1

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

4 (B) Post-charge by prosecutors for persons charged with a first or a
5 second misdemeanor or a first nonviolent felony, or other offenses as the
6 prosecutor deems appropriate, pursuant to subdivision (c)(3) of this section.

7 (C) Post-charge by prosecutors of persons who have been charged
8 with an offense and who have substance abuse or mental health treatment
9 needs regardless of the person's prior criminal history record, except a person
10 charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall
11 not be eligible under this section. Persons who have attained 18 years of age
12 who are subject to a petition in the Family Division pursuant to 33 V.S.A.
13 chapter 52 or 52A shall also be eligible under this section. Programming for
14 these persons is intended to support access to appropriate treatment or other
15 resources with the aim of improving the person's health and reducing future
16 adverse involvement in the justice system.

17 * * *

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

19 * * *

20 (5) Post-charge diversion records ~~expungement~~ sealing. Within 30 days
21 after the two-year anniversary of a successful completion of adult post-charge

1 diversion, the court shall provide notice to all parties of record of the court's
2 intention to order the ~~expungement~~ sealing of all court files and records, law
3 enforcement records, fingerprints, and photographs other than entries in the
4 adult court diversion program's centralized filing system applicable to the
5 proceeding. However, the court shall not order ~~expungement~~ sealing if the
6 participant does not satisfy each of subdivisions (A)–(C) of this subdivision.
7 The court shall give the State's Attorney an opportunity for a hearing to contest
8 the ~~expungement~~ sealing of the records. The court shall ~~expunge~~ seal the
9 records if it finds:

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

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

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

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

1 (7) Post-charge diversion case index.

2 (A) The court and the Office of the Attorney General shall keep a
3 special index of post-charge diversion cases that have been ~~expunged~~ sealed
4 pursuant to this section together with the ~~expungement~~ sealing order. The
5 index shall list only the name of the person convicted of the offense, the
6 person's date of birth, the docket number, date of case closure, location of
7 programming, and the criminal offense that was the subject of the
8 ~~expungement~~ sealing.

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

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

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

20 (8) Effect of ~~expungement~~ sealing. ~~Except as otherwise provided in this~~
21 ~~section, upon the entry of an order expunging files and records under this~~

1 ~~section, the proceedings in the matter shall be considered never to have~~
2 ~~occurred; all index references thereto shall be deleted; and the participant, the~~
3 ~~court, law enforcement officers and departments, prosecutors, the referring~~
4 ~~entity, and the diversion program shall reply to any request for information that~~
5 ~~no record exists with respect to such participant inquiry in any matter. Copies~~
6 ~~of the order shall be sent to each agency, entity, or official named therein~~
7 Procedures for sealing, the effect of sealing, and access to sealed records shall
8 be as provided in 13 V.S.A. § 7607.

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

15 * * *

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect on July 1, 2026.
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4 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE