

§ 7607. EFFECT OF SEALING

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(c) Exceptions. A party seeking to use a sealed criminal history record, pursuant to the exceptions established in this subsection, in a court proceeding shall, prior to any use of or reference to the record in open court or in a public filing, notify the court of the party's intent to do so. The court shall thereafter determine whether the record may be used prior to its disclosure in the proceeding. If a party submits a filing that contains a sealed record or a reference to a sealed record, that filing shall be filed under seal and remain under seal unless the court permits the use of the sealed record. This shall not apply to the use of a sealed record pursuant to subdivision (8) of this subsection. Use of a sealed record pursuant to an exception shall not change the effect of sealing under subsection (b) of this section. Notwithstanding any other provision of law or a sealing order:

(1) An entity or person that possesses a sealed record, or an attorney for such entity or person, may continue to use ~~it~~ the record for any litigation or claim arising out of the same incident or occurrence ~~or involving the same defendant~~, including use of the record in reasonable anticipation of litigation.

The entity or person shall, before disclosing the record to another person, provide the following notice to the recipient of the record:

"SEALED - KNOWINGLY ACCESSING OR DISCLOSING THIS RECORD

WITHOUT AUTHORIZATION IS A CIVIL VIOLATION SUBJECT TO A PENALTY

OF NOT MORE THAN \$1,000.00."

(2)(A) Except as subdivision as provided in subdivision (B), a A criminal justice agency as defined in 20 V.S.A. § 2056a and the Attorney General may use the criminal

history record sealed in accordance with section 7602 or 7603 of this title ~~without~~
~~limitation~~ for criminal justice purposes as defined in ~~20 V.S.A. § 2056a~~ section 7601 of
this title.

(B)(i) A criminal justice agency or the Attorney General may disclose a sealed
criminal history record to another person only pursuant to a court order issued after the
agency or the Attorney General files a petition and a supporting affidavit. The court shall
permit disclosure of the record if it finds that disclosure is for criminal justice purposes as
defined in section 7601 of this title. The court may grant the petition ex parte or upon
hearing at the court's discretion. The agency or the Attorney General shall provide the
following notice to the recipient of the record: "SEALED - KNOWINGLY ACCESSING
OR DISCLOSING THIS RECORD WITHOUT AUTHORIZATION IS A CIVIL
VIOLATION SUBJECT TO A PENALTY OF NOT MORE THAN \$1,000.00."

(ii) This subdivision (B) shall not require a criminal justice agency or the
Attorney General to petition or obtain a court order for disclosure of records:

(I) to another criminal justice agency; or

(II) to meet discovery obligations pursuant to subdivision (7) of this
subsection.

(3) A defendant may use the sealed criminal history record of another person in the
defendant's criminal proceeding. The defendant shall, before disclosing the record to
another person, provide the following notice to the recipient of the record: "SEALED -
KNOWINGLY ACCESSING OR DISCLOSING THIS RECORD WITHOUT
AUTHORIZATION IS A CIVIL VIOLATION SUBJECT TO A PENALTY OF NOT
MORE THAN \$1,000.00."

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§ 7611. UNAUTHORIZED DISCLOSURE

A ~~State or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, or a law enforcement officer as defined in 20 V.S.A. § 2351a~~ person who knowingly accesses or discloses sealed criminal history record information without authorization shall be assessed a civil penalty of not more than \$1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 3. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

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(e) Upon violation of the terms of probation or of the deferred sentence agreement, the court shall impose sentence. Upon fulfillment of the terms of probation and of the deferred sentence agreement, the court shall strike the adjudication of guilt and discharge the respondent. Except as provided in subsection (h) of this section, the record of the criminal proceedings shall be ~~expunged~~ sealed upon the discharge of the respondent from probation, absent a finding of good cause by the court. The court shall issue an order to ~~expunge~~ seal all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence. Copies of the order shall be sent to each agency, department, or official named therein. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such person

upon inquiry in the matter. Notwithstanding this subsection, the record shall not be ~~expunged~~ sealed until restitution has been paid in full.

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(h)(1) The Vermont Crime Information Center shall retain a special index of deferred sentences for sex offenses that require registration pursuant to subchapter 3 of chapter 167 of this title. This index shall only list the name and date of birth of the subject of the ~~expunged~~ sealed files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the ~~expungement~~ sealing. The special index shall be confidential and may be accessed only by the director of the Vermont Crime Information Center and a designated clerical staffperson for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

(2) If the crime for which the respondent was sentenced is not a listed crime as defined in subdivision 5301(7) of this title, the record of the criminal proceedings shall be expunged upon the discharge of the respondent from probation, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence. Copies of the order shall be sent to each agency, department, or official named therein. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such person upon inquiry in the matter. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.