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Vermont State Archives and Records Administration
Tanya Marshall, Chief Records Officer and State Archivist

Date: May 7, 2025

**To: Hon. Martin LaLonde, Chair
House Committee on Judiciary**

From: Tanya Marshall, Chief Records Officer and State Archivist

Re: S.12: An act relating to sealing criminal history records

Thank you for the opportunity to speak on S.12 (An act relating to sealing criminal history records). The Vermont State Archives and Records Administration (VSARA) administers the Statewide Records and Information Management (RIM) Program for state and local government. The core focus of the Statewide RIM Program is for the State of Vermont to meet its legal recordkeeping requirements and to have strong information management programs with the necessary internal resources and controls – people, processes, and technology – to transform the use of records and information to better serve Vermonters.

- **Management Guidance** based on each custodian's records and legal requirements
 - Internal controls and procedures
 - Legacy records and legacy formats for feasibility
 - Day forward for born-digital records, data management, and system design
- **Consistency and Uniformity** across all custodians
 - Functional analysis for a holistic view¹ (*see also page 2*)
 - Standards and best practices
 - Governance frameworks (*see also page 3*)
- **Planning for Inactive and Permanent (Archival) Records**
 - Lifecycle management for each custodian and statewide (*see also page 4*)
 - Staffing and budgeting *over time*, the act of sealing is not the only cost
 - Permanent cannot be sealed "forever" and destroyed records cannot be recreated
- **Opportunities to Effectuate the Legislative Intent of S.12**
 - Leveraging one single entity as the first point of contact for criminal record requests
 - Streamline management, as well as laws, for consistency and uniformity
 - At least one information professional to support the work of criminal justice agencies

¹ VSARA can conduct this analysis before bills are enacted to assist legislators, legislative counsel and all interested entities on identifying consistency and uniformity as well as potential conflicts and/or challenging management requirements. *See pages 2-3.*

Vermont Functional Analysis System (VCLAS)

Functional analysis for a holistic view is highlighted with a footnote because this bill touches a significant number of statutes as well as state and local government entities – and some in different ways. Functional analysis, by definition, is the study of a system through an understanding of its parts. It is a way to see the big picture from different angles.

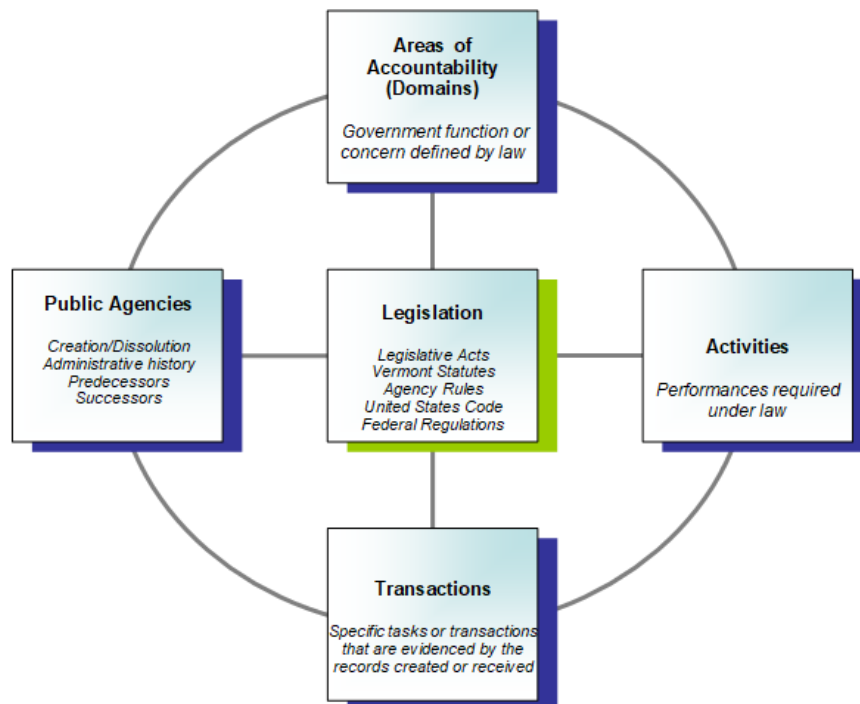
The Vermont Functional Classification System, better known as VCLAS, was developed by the Vermont State Archives and Records Administration (VSARA) as a balanced approach for identifying core government functions and managing all records and information created and received as part of that function in accordance with its legal and recordkeeping requirements. VCLAS conforms to industry standards and information management best practices.

VCLAS is used to break down the complexities of government into its basic parts: legislation; public agencies; areas of accountability; activities; and transactions. Within VCLAS, data about each part and their relationships and dependencies to other parts is collected, analyzed and reported using standardized terminology.

The results of these analyses are the basis for all records appraisals, which are done in collaboration with public agencies, and the final product of the records appraisal and scheduling process is a record schedule.

VCLAS also serves as an objective documentation strategy of government functions, legislation and public agencies *over time* that can inform decision and policy making on various matters.

The VCLAS Model



Information Governance Frameworks

The Vermont State Archives and Records Administration (VSARA) is charged with administering the Statewide Records and Information Management Program in accordance with generally accepted record-keeping principles and industry standards and best practices. We are also responsible for developing, issuing, and maintaining statewide records and information management standards and information governance frameworks. ([3 V.S.A. § 117\(a\)\(3\)](#))

In addition to records and information management standards issued by the International Organization for Standardization (ISO), the **Vermont Unified Information Governance Model** is adapted from two core industry frameworks and models: (1) Information Governance Maturity Model; and (2) Information Governance Reference Model.

For [Vermont's National Criminal Justice Reform Project \(2022\)](#), the State of Vermont's Systems Assessment Model (developed by VSARA based on the Information Governance Maturity Model) was piloted by the project "to assess its potential for helping understand the data integration capabilities among stakeholders and their systems and was found to be a valuable tool" (pp. 28-31).

Information Governance Maturity Model:

Principle	Level 1 Sub-standard	Level 2 In Development	Level 3 Essential	Level 4 Proactive	Level 5 Transformational
Accountability					
Transparency					
Integrity					
Protection					
Compliance					
Availability					
Retention					
Disposition					

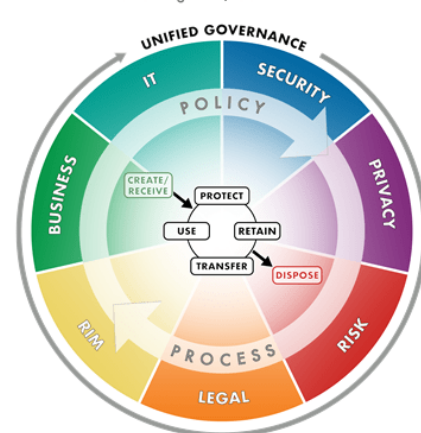
The Information Governance Maturity Model was developed and is supported by a community of information management and information governance professionals (ARMA) for performance audits of information management programs, internal policies and procedures, and information systems.

Information Governance Reference Model (IGRM):

The IGRM (Information Governance Reference Model) was developed and is supported by a community of electronic discovery and legal professionals (EDRM) to support cross functional and collaborative approaches to managing information in a compliant, secure and value-driven way.

The framework identifies core groups and their roles, responsibilities and use of information and core concepts for governance, particularly (1) information lifecycle; (2) policy integration; and (3) collaboration.

INFORMATION GOVERNANCE REFERENCE MODEL (IGRM)
Balancing Value, Risk and Cost



Lifecycle Management (Record Schedules as Defined in [3 V.S.A. § 117](#))

The Vermont State Archives and Records Administration (VSARA) is charged with formal appraisals under the Statewide Records and Information Management Program. Using VCLAS as well as governance frameworks with local and state government entities that use our services, **we issue record schedules that govern the lifecycle of written and recorded information created or received in the course of government business.** Schedules are developed with transdisciplinary teams within each entity and [published on our website](#).

Even if a government entity does not use our services, **record schedules are still required under the Vermont Public Records Act to destroy written and recorded information created or received in the course of government business unless authorized by law.** ([1 V.S.A. § 317a](#)) For permanent preservation and access, all three branches of Vermont state government can transfer legal custody of permanent (archival) records to VSARA.

All schedules are based on current, contemporary law with a retrospective analysis phase when implemented. This approach ensures schedules are justifiable and defensible. Because schedules are based on current, contemporary law, they are subject to change.

For most law enforcement entities subject to S.12 (An act relating to sealing criminal history records), schedules have been scoped to written or recorded information created or received in the course of Vermont state government business for the following functions:

- Investigating Offenses (“Offenses” as defined in [13 V.S.A. § 8002](#))

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graph TD
    A[Investigating Offenses] --- B["("Offenses" as defined in 13 V.S.A. § 8002)"]
    B --- C[Activity]
    B --- D[Domain]
    B --- E[State Statute]
```
- Prosecuting Misdemeanors (“Misdemeanors” as defined in [13 V.S.A. § 1](#))
- Prosecuting Nonviolent felonies (“Nonviolent felonies” as defined in [28 V.S.A. § 301](#))²
- Prosecuting Violent felonies (“Violent felonies” as defined in 18 V.S.A. § 4474g³)

In general, there are between 10-15 distinct types of records created or received for each function when the investigation results in the commencement and continuance of a prosecution:

- The **retention trigger is case is completed/closed**, meaning no further action is pending and the individual’s sentence has lapsed.
- The **retention time frame is case is completed/closed** plus 6 years.
- The **disposition requirement when the full retention requirement has been met** is destroy *unless* the case meets the criteria of major or significant in the "Vermont Archival Records" standard. If a major or significant, certain records are permanent (archival).

² Listed crimes in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 are defined as nonviolent felony offenses in relation to the “release of certain persons on probation for nonviolent offenses.”

³ Repealed by Act 164 of 2020.