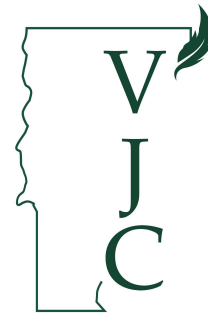


Vermont Legislature
Senate Committee on Judiciary
Testimony in support of H.947 Section 4
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Kristen Fountain
Coordinator, Vermont Journalism Coalition



The [Vermont Journalism Coalition](#) is a nonprofit membership organization that aims to strengthen the state's professional news organizations as a strategy for promoting government accountability and public engagement in community and civic life. We were founded last summer and now have 42 member news outlets from every corner of the state. They span print, digital-only, radio and television, for-profit and non-profit, with coverage areas that range from statewide to just one or two small towns.

I am here to explain why repealing this prohibition on access to criminal records is so important to the members of our coalition, and why it is good for the individuals and communities across the state as well. For years, Vermont civil court records have been available to the public through Vermont Judiciary's online portal. But state criminal court records have not, even though both types of cases are handled by the same backend content management software.

That is because Vermont law currently prohibits the court from allowing the public to access criminal records online. I want to acknowledge [the research and thinking done](#) by the Media Freedom & Information Access Clinic at Yale Law School and the New England First Amendment Coalition. Their work helped us to understand the history of this law and its current legal context. Their analysis is that today's federal courts would very likely see this prohibition as an unconstitutional procedural delay or impediment to the public's right to see these records.

Here's the short version: This prohibition was put in place almost 20 years ago when all court records were still largely on paper, and when there were no court rules in place about safeguarding confidential personal information from public filings. Even back then a 2007 legislative committee that studied the topic recommended that criminal records be made available online because, like records in civic cases, these are public documents. Unfortunately, in 2008, this committee and state law went the other way.

Meanwhile the same technological changes that made digital court filings the norm and allowed lawyers and judges to submit and review them through a website from anywhere has upended the business model that sustained journalism. [Rebuild Local News](#), a group I also represent, analyzed information gathered over the last 10 years by Northwestern University's [State of Local News Project](#). They estimate that between 2013 and 2023, the Vermont news business lost more than half its working journalists and more than 400 jobs.

One result of that is there are far fewer people reporting on the daily business of the state courts. The journalists that do are also responsible for trying to inform communities about a wide range of other topics. At the small local and regional newspapers that make up most of our membership, reporters and editors are also uploading stories to their websites and laying out their print products. In some cases, they are distributing their newspaper to stores for sale themselves.

Currently for journalists and other members of the general public to see criminal court documents, anything beyond a basic calendar, there are two methods. They can drive to the county courthouse and use a designated computer terminal there or they can request specific documents by sending a form to court staff via email. These terminals sometimes are not functioning and access is limited to the courthouse's hours. Email requests can require several back and forth exchanges depending on how familiar people are with the case or the file names.

This creaky system can work. Experienced reporters have longstanding relationships with court employees who help them find documents quickly. But they still have to know when to reach out and ask, and they must rely on court officers and lawyers who also have many other jobs and tasks they are trying to accomplish. But it is unnecessarily time consuming. With fewer reporters trying to do more, that time is precious.

I met yesterday with the editor of the Hardwick Gazette who has one part-time staff reporter and several freelancers to cover 11 towns in four counties. The closest county courthouse to their office is a 25 minute drive. Like dozens of other local publications, the newspaper often prints reports of police activity and arrests made, not just murders and assaults, but for drug sales, theft and driving under the influence. But they don't have the capacity to follow whether charges are filed, what kind and how the case turns out. That leaves the general public in this rural region completely without information about the basic functioning of their criminal court system.

But repealing this prohibition is not just about making our jobs easier to do or reducing the burden on overworked court employees, though it will do both these things. Fundamentally opening up state criminal records online to public scrutiny is essential to maintaining public confidence in how the criminal court system works. Plus the public has a right to have access to these records under both the state and federal constitution. In today's world, that means they should be able to review them remotely online when the records are now submitted digitally and the content management system is already in place and functioning to allow for this.

In 2008, legislators thought that by making it more difficult for the press and general public to access criminal court records that they were protecting people's reputations and their privacy. Today when commercially available artificial intelligence can produce official looking documents within minutes to put on social media, the situation is very much the opposite. Giving the public and the press a way to efficiently access criminal records helps us to quickly assess rumors and combat false information spreading online.