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To: Chair Hashim and Members of the Senate Judiciary Committee
From: Rebecca Plummer, Deputy Director, Vermont Legal Aid, Inc.
Date: February 11, 2025
Re: S.12 – an act relating to sealing criminal history records

I am writing to share Vermont Legal Aid's thoughts on S.12. My name is Rebecca Plummer, and I'm deputy director of Vermont Legal Aid. I've been a civil legal services lawyer in Vermont and Boston for over 25 years and have worked in many areas of legal services over that time.

In addition to being deputy director, I also direct Vermont Legal Aid's Medical-Legal Partnership Project. Until 2023, one of these partnerships was with several Medication Assisted Treatment clinics around the state for people with substance use disorder (SUD), where we worked with many Vermonters who had criminal records from periods when their addiction dominated their lives. Now in treatment, sometimes for several years, and having completed their criminal sentences, they were desperate to move forward and be able to support themselves and their families by finding decent paying jobs, safe housing, and education and training. Through this project we helped a lot of people obtain expungement and sealing orders that made a huge difference in their lives and the lives of their families.

Vermont Legal Aid continues to do criminal record clearance work, but because of limited resources we are not able to help many of the people who ask us for help. When we are able to take expungement cases, we sometimes have to convey the difficult news that the person's record is not yet eligible for expungement or sealing, or not eligible at all. This means that people who have completed their sentences can expect to have a permanent barrier to full reintegration into society – a barrier that harms not just them but their children.

Because of this, we appreciate any efforts to expand the list of qualifying crimes that are eligible for clearance, and particularly the focus in S.12 on adding crimes that are often related to addiction. We also appreciate S.12's reduction of the time limit for sealing of misdemeanor convictions and all aspects of the bill that move us toward automatic clearance of some criminal records, because we know from experience that criminal record clearance is often very complicated and not possible to do pro se.

While we appreciate these aspects of S.12's provisions, we write to express serious concerns about the current version of this bill.

First, we oppose the elimination of expungement in this bill because expungement is a critical tool to address racial inequity in our criminal justice system. In Vermont, a disproportionate number of Black and Indigenous people have contact with the criminal legal system. *Prison Policy Initiative* <https://www.prisonpolicy.org/profiles/VT.html>. As we know, the implicit bias that we all have – and law enforcement is no exception – plays a large role in this disproportionate effect. Unfortunately, it is therefore reasonable to expect that law enforcement and other criminal justice agencies will disproportionately use sealed records against people of color. Indeed, it would be illogical to expect otherwise. Limiting this access is the best way to prevent the racially inequitable use of these records.

Second, we are deeply concerned about the significant expansion of access to sealed records. As noted above, wide access to sealed records by criminal justice agencies is extremely likely to lead to disparate treatment of Vermonters of color. The specific extension of access to the Office of Professional Regulation directly undermines another of the primary purposes of expungement and sealing laws, as well as the Collateral Consequences law passed in 2016 – to help people get jobs. Additionally, with more people and entities having access to sealed records comes a greater likelihood that sealed information will be leaked and cause collateral damage to the person involved.

I testified about these same concerns with regard to H.655 last year. We did not oppose that bill until “super sealing” was removed from the bill, as it has now been removed from this bill. Last year, the Attorney General's Office and the Defender General testified about evidence showing that misdemeanor records after three years, and felony records after seven years, have little bearing on a person's likelihood of recidivism. Vermont law should reflect that evidence and discontinue access to sealed records after these time periods have elapsed.

Last year, this Committee expressed grave concerns about eliminating expungement for Vermonters and granting permanent access by numerous agencies and actors to sealed records, and it decided not to pass the bill before it. We opposed H.655 last year, and we oppose S.12, which appears to be nearly identical, now. We hope that this Committee will come to the same conclusions that it did last year.

The Legislature has an opportunity to help Vermonters move forward with their lives and become productive and independent members of their communities. It should not erode the protections provided by previous legislatures regarding expungement and sealing and the collateral consequences of criminal convictions.

Please do not hesitate to let me know if you have any questions about my comments. Thank you for your work on behalf of Vermonters.