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TO: Sen. Nader Hashim, Chair, Senate Committee on Judiciary
FROM: Todd Daloz, AAG, Director of Policy and Legislative Affairs
DATE: May 15, 2025
RE: Written Testimony in Support of S.12

I write to provide written testimony in **support of S.12**. In brief, the Attorney General's Office (AGO) has long supported Vermont's sealing and expungement laws as a means of enabling Vermonters who have completed their criminal sentences and have not re-offended to gain a second chance without the weight of their past conviction hanging over them. Criminal history records can be an obstacle to securing stable housing, getting a better job, and participating fully in community and family life, and data and research show that after the sufficient passage of time, incidents of long-past criminal activity are not an indicator of a likelihood of reoffending.

S.12 continues to meet these overarching goals of sealing and expungement. While the bill largely moves Vermont away from any true expungement and toward a more uniform sealing system with express exceptions for the use of sealed records, it also significantly expands the number of criminal offenses that are eligible for sealing. The AGO supports this balance; increasing the number of Vermonters who can have past crimes sealed enables more individuals to move beyond their past actions and more fully engage in their communities.

The AGO supported S.12 as passed by the Senate and requested two small changes that have been included in the current version of the bill, passed by the House Committee on Judiciary on May 14, 2025 (Draft No. 4.1). These changes are:

- Ensuring the State can properly respond to legal claims that involve sealed criminal history records:
 - 13 V.S.A § 7607(c)(1) (Draft 4.1, pages 25-26, lines 20-21/1-2): The amended language permits any party (person or entity), or their attorney, to use a sealed record in their possession in litigation, including in anticipation of litigation.
 - This change allows the AGO and other parties to potential litigation to access and review sealed records they possess when responding to claims that are a part of, or may reasonably become a part of, litigation.
 - Example: An individual sends a demand letter to the State, claiming injury

based on an interaction with state law enforcement. The records related to this interaction have been sealed pursuant to Vermont law. This amended language would permit the AGO to review any video footage (or other sealed records) the State possesses when assessing the merits of the demand and use that information when responding to the demand, potentially settling the matter before it ever reaches a court.

- Creating mutual discovery obligations for all parties possessing sealed records.
 - 13 V.S.A § 7607(c)(7) (Draft 4.1, page 27, lines 3-6): The amended language expands the discovery obligations to all parties who possess potentially relevant sealed records.
 - Earlier versions of S.12 included this discovery provision, but it applied only to States Attorneys and the AGO. This change makes discovery obligations mutual for all parties, including plaintiff's counsel.
 - Because this exception applies to discovery obligations, a court would ultimately decide whether a discovery request for sealed records was appropriate, and parties would still be required to notify the court if they intended to use a sealed criminal history record in a court proceeding.