

1 S.175

2 Introduced by Senator White

3 Referred to Committee on Government Operations

4 Date: January 4, 2022

5 Subject: General provisions; common law; general rights; Public Records Act;
6 records relating to juvenile proceedings

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) exempt from the Public Records Act and make confidential any
9 identifying information contained in a record reflecting the initial arrest or
10 charge of a child; and

11 (2) make the Family Division or Criminal Division of the Superior
12 Court the sole records custodian for purposes of responding to a request for
13 law enforcement and court records relating to a person under the jurisdiction
14 of either court pursuant to 33 V.S.A. chapters 52 and 52A.

15 An act relating to confidential information concerning the initial arrest and
16 charge of a child

17 It is hereby enacted by the General Assembly of the State of Vermont:

18 ~~Section 1 of 33 V.S.A. § 317 is amended to read:~~

19 § 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND

20 ~~DOCUMENTS, EXEMPTIONS~~

1
2 (c) The following public records are exempt from public inspection and
3 copying.

4 * * *

5 (5)(A) Records dealing with the detection and investigation of crime,
6 but only to the extent that the production of such records:

7 * * *

8 (B)(i) Notwithstanding subdivision (A) of this subdivision (5),
9 records relating to management and direction of a law enforcement agency;
10 records reflecting the initial arrest of a person, including any ticket, citation, or
11 complaint issued for a traffic violation, as that term is defined in 23 V.S.A.
12 § 2302; and records reflecting the charge of a person shall be public.

13 (ii) A public agency shall not release any information within a
14 record reflecting the initial arrest or charge of a child that would reveal the
15 identity of the child. However, a public agency may disclose identifying
16 information relating to the initial arrest of a child in order to protect the health
17 and safety of any person.

18 (iii) For purposes of subdivision (ii) of this subdivision (B),
19 “child” shall mean an individual who meets the definition of “child” pursuant
20 to 33 V.S.A. § 5102(2)(C) and is an age enumerated in 33 V.S.A.

21 ~~§ 5103(c)(2)(A).~~

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Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person who is younger than the age identified in 33 V.S.A. § 5201(d) that would reveal the identity of the person. However, a public agency may disclose information that would reveal the identity of the person in order to protect the health and safety of any person.

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Sec. 2. APPLICATION OF PUBLIC RECORDS ACT EXEMPTION

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REVIEW

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Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption

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amended in Sec. 1 of this act shall continue in effect and shall not be reviewed

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for repeal.

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Sec. 3. 33 V.S.A. § 5117 is amended to read:

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§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

1 (a)(1) Except as otherwise provided, court and law enforcement reports and
2 files concerning a person subject to the jurisdiction of the court shall be
3 maintained separate from the records and files of other persons. Unless a
4 charge of delinquency is transferred for criminal prosecution under chapter 52
5 of this title or the court otherwise orders in the interests of the child, such
6 records and files shall not be open to public inspection nor their contents
7 disclosed to the public by any person. However, upon a finding that a child is
8 a delinquent child by reason of commission of a delinquent act that would
9 have been a felony if committed by an adult, the court, upon request of the
10 victim, shall make the child's name available to the victim of the delinquent
11 act. If the victim is incompetent or deceased, the child's name shall be
12 released, upon request, to the victim's guardian or next of kin.

13 (2) When a person is subject to the jurisdiction of the court, the court
14 shall become the sole records custodian for purposes of responding to any
15 request for court or law enforcement records concerning the person. A public
16 agency shall direct any request for these records to the courts for response.

17 (3) When a person is subject to the jurisdiction of the Criminal Division
18 of the Superior Court pursuant to chapter 52 or 52A of this title, the Criminal
19 Division of the Superior Court shall become the sole records custodian for
20 purposes of responding to any request for court or law enforcement records

1 concerning the person. A public agency shall direct any request for these
2 records to the courts for response.

3 * * *

4 Sec. 4. EFFECTIVE DATE

5 This act shall take effect on July 1, 2022.