

1 S.222

2 Introduced by Senator Sears

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedures; expungement and sealing of criminal
6 history records

7 Statement of purpose of bill as introduced: This bill proposes to expand the
8 list of nonviolent crimes that are eligible for sealing on a person's criminal
9 history record, provide for automatic expungement of most municipal
10 violations after a period of three years, and add a retroactive date for tolling of
11 eligibility for automatic expungement of motor vehicle violations.

12 An act relating to sealing records of nonviolent offenses

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

14 Sec. 1. 13 V.S.A. § 7601 is amended to read:

15 § 7601. DEFINITIONS

16 As used in this chapter:

17 (1) "Court" means the Criminal Division of the Superior Court.

18 (2) "Criminal history record" means all information documenting an
19 individual's contact with the criminal justice system, including data regarding
20 identification, arrest or citation, arraignment, judicial disposition, custody, and

1 supervision.

2 (3) ~~“Predicate offense” means a criminal offense that can be used to~~
3 ~~enhance a sentence levied for a later conviction and includes operating a~~
4 ~~vehicle under the influence of alcohol or other substance in violation of~~
5 ~~23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,~~
6 ~~and stalking in violation of section 1062 of this title. “Predicate offense” shall~~
7 ~~not include misdemeanor possession of cannabis, a disorderly conduct offense~~
8 ~~under section 1026 of this title, or possession of a controlled substance in~~
9 ~~violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a),~~
10 ~~4234b(a), 4235(b), or 4235a(a). [Repealed.]~~

11 (4) “Qualifying crime” means:

12 (A) ~~a misdemeanor offense that is not:~~

13 (i) ~~a listed crime as defined in subdivision 5301(7) of this title;~~

14 (ii) ~~an offense involving sexual exploitation of children in~~
15 ~~violation of chapter 64 of this title;~~

16 (iii) ~~an offense involving violation of a protection order in~~
17 ~~violation of section 1030 of this title;~~

18 (iv) ~~prostitution as defined in section 2632 of this title, or~~
19 ~~prohibited conduct under section 2601a of this title; or~~

20 (v) ~~a predicate offense;~~

21 (B) ~~a violation of subsection 3701(a) of this title related to criminal~~

1 mischief;

2 ~~(C) a violation of section 2501 of this title related to grand larceny;~~

3 ~~(D) a violation of section 1201 of this title related to burglary,~~

4 ~~excluding any burglary into an occupied dwelling, as defined in subdivision~~

5 ~~1201(b)(2) of this title;~~

6 ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

7 ~~(F) a violation of section 1802 of this title related to uttering a forged~~

8 ~~or counterfeited instrument;~~

9 ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and~~

10 ~~cultivation of cannabis;~~

11 ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of~~

12 ~~cocaine;~~

13 ~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

14 ~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

15 ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of~~

16 ~~depressant, stimulant, and narcotic drugs;~~

17 ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of~~

18 ~~methamphetamine;~~

19 ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of~~

20 ~~ephedrine and pseudoephedrine;~~

21 ~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of~~

1 hallucinogenic drugs;

2 ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of~~
3 ~~ecstasy; or~~

4 ~~(P) any offense for which a person has been granted an unconditional~~
5 ~~pardon from the Governor.~~

6 (A) all misdemeanor offenses except:

7 (i) a listed crime as defined in subdivision 5301(7) of this title;

8 (ii) a violation of chapter 64 of this title relating to sexual
9 exploitation of children;

10 (iii) a violation of section 1030 of this title relating to a violation
11 of an abuse prevention order, an order against stalking or sexual assault, or a
12 protective order concerning contact with a child;

13 (iv) a violation of chapter 28 of this title related to abuse, neglect,
14 and exploitation of a vulnerable adult;

15 (v) a violation of subsection 2605(b) or (c) of this title related to
16 voyeurism;

17 (vi) a violation of subdivisions 352(1)–(10) of this title related to
18 cruelty to animals;

19 (vii) a violation of section 5409 of this title related to failure to
20 comply with sex offender registry requirements;

21 (viii) a violation of section 2802, 2802a, 2803, 2804, or 2804b of

1 this title related to obscenity;

2 (ix) a violation of section 1455 of this title related to hate
3 motivated crimes; and

4 (x) a violation of section 1456 of this title related to burning of a
5 religious symbol; and

6 (B) the following felonies:

7 (i) a violation of section 1201 of this title related to burglary,
8 excluding any burglary into an occupied dwelling, unless the person was
9 25 years of age or younger at the time of the offense and did not carry a
10 dangerous or deadly weapon during the commission of the offense;

11 (ii) designated felony property offenses as defined in subdivision
12 (5) of this section;

13 (iii) offenses relating to possessing, cultivating, selling,
14 dispensing, or transporting regulated drugs, including violations of 18 V.S.A.
15 § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a),
16 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or
17 4235a(a) and (b); and

18 (iv) any offense for which a person has been granted an
19 unconditional pardon from the Governor.

20 (5) “Designated felony property offense” means:

21 (A) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of

- 1 a credit card;
- 2 (B) section 1801 of this title related to forgery and counterfeiting;
- 3 (C) section 1802 of this title related to uttering a forged or
4 counterfeited instrument;
- 5 (D) section 1804 of this title related to counterfeiting paper money;
- 6 (E) section 1816 of this title related to possession or use of credit
7 card skimming devices;
- 8 (F) section 2001 of this title related to false personation;
- 9 (G) section 2002 of this title related to false pretenses or tokens;
- 10 (H) section 2029 of this title related to home improvement fraud;
- 11 (I) section 2030 of this title related to identity theft;
- 12 (J) section 2501 of this title related to grand larceny;
- 13 (K) section 2531 of this title related to embezzlement;
- 14 (L) section 2532 of this title related to embezzlement by officers or
15 servants of an incorporated bank;
- 16 (M) section 2533 of this title related to embezzlement by a receiver
17 or trustee;
- 18 (N) section 2561 of this title related to receiving stolen property;
- 19 (O) section 2575 of this title related to retail theft;
- 20 (P) section 2582 of this title related to theft of services;
- 21 (Q) section 2591 of this title related to theft of rented property;

1 (R) section 2592 of this title related to failure to return a rented or
2 leased motor vehicle;

3 (S) section 3016 of this title related to false claims;

4 (T) section 3701 of this title related to unlawful mischief;

5 (U) section 3705 of this title related to unlawful trespass;

6 (V) section 3733 of this title related to mills, dams, or bridges;

7 (W) section 3761 of this title related to unauthorized removal of
8 human remains;

9 (X) section 3767 of this title related to grave markers and ornaments;

10 (Y) chapter 87 of this title related to computer crimes; and

11 (Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a
12 regulated drug.

13 (6) “Subsequent offense” means the conviction of a crime committed by
14 the person who is the subject of a petition to seal a criminal history record that
15 arose out of a new incident or occurrence after the person was convicted of the
16 crime to be sealed.

17 Sec. 2. 4 V.S.A. § 1112 is added to read:

18 § 1112. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

19 (a) Expungement. Three years following the satisfaction of a judgment
20 resulting from an adjudication of a municipal violation, the Judicial Bureau
21 shall make an entry of “expunged” and notify the municipality of such action,

1 provided the person has not been adjudicated for any subsequent municipal
2 violations during that time. The data transfer to the municipality shall include
3 the name, date of birth, ticket number, and offense. Violations of offenses
4 adopted pursuant to chapter 117 of this title shall not be eligible for
5 expungement under this section.

6 (b) Effect of expungement.

7 (1) Upon entry of an expungement order, the order shall be legally
8 effective immediately and the individual whose record is expunged shall be
9 treated in all respects as if the individual had never been adjudicated of the
10 violation.

11 (2) Upon an entry of expunged, the case will be accessible only by the
12 Clerk of the Court for the Judicial Bureau or the Clerk's designee.
13 Adjudications that have been expunged shall not appear in the results of any
14 Judicial Bureau database search by name, date of birth, or any other data
15 identifying the defendant. Except as provided in subsection (c) of this section,
16 any documents or other records related to an expunged adjudication that are
17 maintained outside the Judicial Bureau's case management system shall be
18 destroyed.

19 (3) Upon receiving an inquiry from any person regarding an expunged
20 record, the Judicial Bureau and the municipality shall respond "NO RECORD
21 EXISTS."

1 (c) Exception for research entities. Research entities that maintain
2 adjudication records for purposes of collecting, analyzing, and disseminating
3 criminal justice data shall not be subject to the expungement requirements
4 established in this section. Research entities shall abide by the policies
5 established by the Court Administrator and shall not disclose any identifying
6 information from the records they maintain.

7 (d) Policies for implementation. The Court Administrator shall establish
8 policies for implementing this section.

9 (e) Application. This section shall apply to municipal violations that occur
10 on and after July 1, 2024.

11 Sec. 3. 23 V.S.A. § 2303 is amended to read:

12 § 2303. EXPUNGEMENT OF VIOLATION RECORDS

13 * * *

14 (e) Application. This section shall apply to municipal violations that occur
15 on and after July 1, 2021.

16 Sec. 4. EFFECTIVE DATE

17 This act shall take effect on July 1, 2024.