

1 S.37

2 Introduced by Senators Sears, Benning and Hartwell

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedures; expungement of a nonviolent  
6 misdemeanor criminal history record

7 Statement of purpose: This bill proposes to provide a process for a person to  
8 petition the court for expungement of a criminal history record related to his or  
9 her arrest or conviction for a nonviolent misdemeanor. The court may grant  
10 the request if it finds that expungement of the record would serve the interest  
11 of justice.

12 An act relating to expungement of a nonviolent misdemeanor criminal  
13 history record

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

15 Sec. 1. 13 V.S.A. chapter 230 is added to read:

16 CHAPTER 230. CRIMINAL HISTORY RECORD EXPUNGEMENT

17 § 7601. DEFINITIONS

18 As used in this subchapter:

19 (1) “Court” means the criminal division of the superior court.

1           (2) “Criminal history record” means all information documenting an  
2 individual’s contact with the criminal justice system, including data regarding  
3 identification, arrest or citation, arraignment, judicial disposition, custody and  
4 supervision.

5           (3) “Nonviolent misdemeanor” means a misdemeanor offense which is  
6 not a listed crime as defined in subdivision 5301(7) of this title or an offense  
7 involving sexual exploitation of children in violation of chapter 64 or section  
8 1030 of this title.

9           § 7602. PROCEDURE; CONVICTION

10           (a) A person who was convicted of a nonviolent misdemeanor may file a  
11 petition with the court requesting expungement of the criminal history record  
12 related to the conviction.

13           (b) The court shall grant the petition if the following conditions are met:

14           (1) At least 10 years have elapsed since the date on which the person  
15 completed the terms and conditions of the sentence for the conviction.

16           (2) The person has not been convicted of a felony since the person was  
17 convicted for the nonviolent misdemeanor on which the expungement petition  
18 is based.

19           (3) It is the opinion of the court that expungement of the criminal history  
20 record serves the interest of justice.

1       (c) If a petition for expungement is denied, no further petition shall be  
2 brought for three years.

3       § 7603. PROCEDURE; ARREST

4       (a) At any time, a person who was arrested for a nonviolent misdemeanor  
5 may petition the court to expunge the criminal history record related to the  
6 arrest if:

7               (1) No criminal charge is filed by the state.

8               (2) The court does not make a determination of probable cause at the  
9 time of arraignment or dismisses the charge at the time of arraignment.

10              (3) The defendant is acquitted after a trial of all charges related to the  
11 arrest.

12       (b) The court shall grant the petition if it finds that expungement of the  
13 criminal history record serves the interest of justice.

14       § 7604. NEW CHARGE

15       If a person is charged with a criminal offense after he or she has filed a  
16 petition for expungement pursuant to this chapter, the court shall not act on the  
17 petition until disposition of the new charge.

18       § 7605. DENIAL OF PETITION

19       If a petition for expungement is denied pursuant to this chapter, no further  
20 petition shall be brought for five years.

1     § 7606. EFFECT OF EXPUNGEMENT

2           (a) Upon entry of an expungement order, the person whose record is  
3     expunged shall be treated in all respects as if he or she had never been arrested,  
4     convicted, or sentenced for the offense. The court shall issue the person a  
5     certificate stating that such person's behavior after the conviction has  
6     warranted the issuance of the order and that its effect is to annul the record of  
7     arrest, conviction, and sentence. The court shall send a copy of the order to the  
8     Vermont crime information center (VIC), and VCIC shall provide notice of the  
9     expungement to the arresting agency and any other entity that may have a  
10    record related to the expungement order

11          (b) In any application for employment, license, or civil right or privilege or  
12    in an appearance as a witness in any proceeding or hearing, a person may be  
13    required to answer questions about a previous criminal history record only with  
14    respect to arrests or convictions that have not been expunged.

15          (c) Nothing in this section shall affect any right of the person whose record  
16    has been expunged to appeal from the conviction or sentence or to rely on it in  
17    bar of any subsequent proceedings for the same offense.

18    Sec. 2. EFFECTIVE DATE

19          This act shall take effect on July 1, 2011.