

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2014

Bill Number: H.413 Name of Bill: An act relating to the Uniform Collateral Consequences of Conviction Act

Agency/Dept: DPS/CJS/VCIC Author of Bill Review: Jeffrey Wallin

Date of Bill Review: 5/28/2014 Status of Bill: (check one):

Upon Introduction As passed by 1st body As passed by both bodies

Recommended Position:

Support Oppose Remain Neutral Support with modifications identified in # 8 below

Analysis of Bill

- 1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
This bill proposes to provide a type of 'rehabilitation' certificate and limited relief from non-Judicial consequences for an individual being convicted of either a misdemeanor or felony in Vermont.
- 2. Is there a need for this bill?** *Please explain why or why not.*
At this time there is no known redress for individuals suffering a non-Judicial consequence of a qualifying conviction (i.e. someone may be barred from holding a type of employment by statute/policy/procedure independent of their actual sentence determined by the Courts).
- 3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**
The fiscal and programmatic implications of the bill as written are meaningful. As written the bill would require DPS/CJS/VCIC to modify criminal history record architecture for an individual issued a 'certificate', including modification and retractions. This would require potentially extensive work within existing information technology systems and it is unknown how this data might be (if at all) shared between states and with the federal government. **Language in the bill specifically mentions sex offender registry requirements as being not subject to orders in question (§ 8012(a)(1)).**
Additionally, language that was removed from S.264 relating to the sex offender registry was inserted into this version of H.413. Specifically, language that restored the ability to electronically post address information on offenders after a favorable performance audit by the state auditor. As currently constructed statute would not allow address information to be posted even with a favorable performance audit.
- 4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**
It could be anticipated that the Courts would incur some level of fiscal and programmatic responsibility to implement the required review and documentation process. Additionally it can be reasonably expected that there would be significant involvement from the Attorney General's Office on the exact interactions between any awarded certificate and non-Judicial sanctions currently outlined in state and federal statute. With these clarifications other departments within state government could also be affected (i.e. if eligibility for public assistance was affected by a qualifying conviction then AHS might then become involved).
- 5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*
Other groups that deal with affected individuals would likely be forced to balance the effects of this bill with either

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their mission or available resources. For example an agency that provides housing assistance would likely have to balance the effect of an order on: the individual affected, total available resources, and liability should the covered individual re-offend within the scope of the program.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Certain Offender Rights Organizations, Organizations with a strong rehabilitation motivation

6.2 Who else is likely to oppose the proposal and why?

Victim's Rights Organizations, the At-Large Law Enforcement Community

7. Rationale for recommendation: *Justify recommendation stated above.*

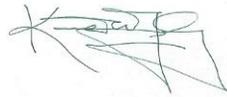
As written the bill would place a meaningful burden on VCIC to modify criminal record architecture (including dissemination protocols) concerning these certificates as part of a criminal background record. This would place not only a burden on the department but also limit the effectiveness of relief as there could be many applications where a criminal record check is not allowed/available/required.

Additionally, support would be recommended due to the benefit of allowing offender address information to be posted to the public internet site. The categories for address posting mirror those present in the 2009 post proviso statute (not the most recent version of 5411a, updated in 2011).

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

In brief, require the constituent agencies (DPS, Courts, Other State Agencies, Other Community Agencies) to form a working group to determine the best way to house and promulgate the certificates. Information could then be shared as part of the criminal record check process to alert all involved of the potential of such certificates and the method for obtaining/verifying them.

Secretary/Commissioner has reviewed this document



Date: 5/29/14

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