

MEMORANDUM

To: Sarah London, Governor's Counsel
From: Robert L. Sand
Nessabeth Rooks, Student, Vermont Law School
Date: September 11, 2014
Re: Earned Expungement Credit Program

Proposal

To amend Vermont law to allow convicted offenders to earn credits that will accelerate their ability to seek an expungement or sealing of their non-violent criminal conviction. 13 VSA Sec. 7602.

Current Law

Current law requires an offender convicted of a "qualifying crime" (i.e. non-violent offense) to wait a minimum of 10 years following sentencing and supervision before petitioning to have the criminal record sealed or expunged. Convictions for all other offenses are permanent and cannot be sealed or expunged.

Effect of Expungement

A person whose criminal record is expunged or sealed shall be treated as if there was no arrest, conviction or sentence. 13 VSA Sec. 7606 (a) and 7607.

Need for Change

Permanent criminal convictions are extraordinarily disabling. Felonies result in loss of substantial privileges and benefits. All convictions impair and impede the ability to secure meaningful employment. Once an offender is forced to "check the box" on an employment application indicating the fact of a conviction the odds of that person being hired drop dramatically. As a result, long after an offender has paid his or her debt to society, the offender continues to pay by being saddled with a criminal record. Forcing ex-offenders to wait a full 10 years before seeking expungement subjects them to a disability they will only rarely overcome. Furthermore, the lack of employment opportunities created by the criminal history retards economic development, undermines self-worth, and can lead to enhanced recidivism.

Mechanism for Change

Convicted offenders should be able to earn credits for engaging in pro-social behavior that would shorten the 10-year waiting period. Examples of how credits would be earned include obtaining a GED or High School diploma, enrolling in and completing anger management, parenting, or substance abuse counseling, participating in community service activities, studying as an apprentice, enrolling in post-secondary education, and military or other service to country to name a few. A structured point system would award offenders credit for their activities which, in turn, would reduce proportionally the 10-year waiting period. Incentivizing ex-offenders to engage in pro-social behavior is an idea that people from across the political spectrum should support.

Cost

The cost for earning the credits would be borne by the participant. This proposal should be revenue neutral to the state.