

# OFFICE OF THE PUBLIC DEFENDER

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April 1, 2025

## TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

**House Bill No. 5439**

**ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE – IDENTIFICATION AND APPREHENSION OF CRIMINALS.**

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender strongly supports HB5439, which proposes to require the clerk of the Superior Court to administratively seal counts that have been dismissed pursuant to Rule 48(a) of the District Court Rules of Criminal Procedure. The automatic sealing of dismissed counts is a sensible and just measure that aligns with the principles of equity and recognizes the importance of the rehabilitation of individuals involved in the criminal justice system.

There is currently no automatic process for sealing counts dismissed under District Court Rule 48(a), which often places an unnecessary burden on individuals who must not only bear the stigma associated with criminal allegations even when they have been proven false or unsubstantiated, but who must also navigate the bureaucratic process of removing the charges from their record. In fact, research shows that not all those who are eligible to benefit from sealing and expungement laws exercise their rights.<sup>1</sup> This “uptake gap” potentially arises whenever challenges are present such as fees, administrative requirements, or difficulty in learning about the right or opportunity. *See id.*

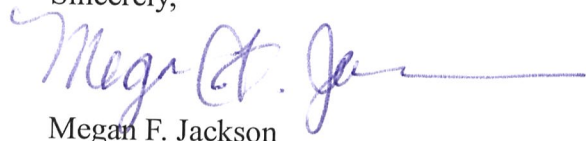
By requiring the District Court clerk to automatically seal dismissed counts in a criminal complaint, the proposed legislation streamlines the process, ensuring that individuals are not unfairly burdened by the lingering effects of charges that have been dismissed. This approach recognizes the right of individuals to move forward with their lives without the unnecessary and enduring consequences of an arrest or accusation.

The Office of the Public Defender therefore urges the Committee to recommend HB5439 for passage.

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<sup>1</sup> See J.J. Prescott & Sonja B. Starr, Expungement of Criminal Convictions: An Empirical Study, 133 HARV. L. REV. 2460, 2486-87 (2020).

Sincerely,

A handwritten signature in blue ink, appearing to read "Megan F. Jackson", followed by a horizontal line.

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