

OFFICE OF THE PUBLIC DEFENDER

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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill Nos: 5072, 5178, 5441, and 5647

ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE – EXPUNGEMENT
OF CRIMINAL OFFENSES.

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender strongly supports HB5072, HB5178, HB5441, and HB5647, all of which propose amendments to expand expungement opportunities for individuals who have completed their sentences and demonstrated a commitment to lawful behavior. While we strongly support the intent and overall provisions of these bills, we would like to bring attention to a reservation concerning the language in (b)(1)(iv) of HB5178 and HB5647 related to eligibility.

Our support of this legislation is based on research indicating that laws expanding expungement opportunities for individuals' post-conviction enhances public safety, since people who receive expungements have low recidivism rates.¹ The same research demonstrates that individuals with expunged records exhibit an overall crime rate lower than the general population. *Id.* at 2514. The research is evidence of the positive impacts of rehabilitation and the need to recognize and support individuals who have successfully reintegrated into society after completing their sentences.

HB5441 would allow individuals to file a motion to expunge misdemeanor convictions three years after completing their sentences and felony convictions five years after completing their sentences. HB5178 and HB5647 would remove the current barriers preventing individuals with more than one felony conviction from ever being eligible for a clean record. HB5072 would similarly remove the barrier to expunging misdemeanors for someone with one felony conviction. These proposed changes acknowledge that individuals who have paid their debt to society and demonstrated rehabilitation after their sentences expired should have the opportunity to overcome the barriers hindering full reintegration, such as employment, safe and stable housing, and education.

However, our office has concerns about the language in (b)(1)(iv) of HB5178 and HB5647, specifically the inclusion of the phrase “nor arrested.” This provision could prevent expungement for individuals who have been arrested during the ten-year period after their sentence, even if they

¹ J.J. Prescott & Sonja B. Starr, Expungement of Criminal Convictions: An Empirical Study, 133 HARV. L. REV. 2460 (2020).

were found not guilty or had their cases dismissed. To better align the legislation with its intended purpose, we recommend removing the phrase "nor arrested" from this clause.

In conclusion, the Office of the Public Defender urges the Committee to consider the positive impact that these four bills would have on individuals seeking to rebuild their lives after completing their sentences. We recommend supporting the bill with the amended language as outlined above.

Sincerely,

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

Megan F. Jackson
Legislative Liaison
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