



Senator Whitney Westerfield
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State Representative Darryl T. Owens
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February 19, 2013

RE: The Sentencing Project endorses House Bill 47

Dear Chairman Westerfield and Representative Owens:

The Sentencing Project, a national criminal justice research and advocacy organization, applauds House Bill 47, a bill that authorizes expungement under specified circumstances for persons convicted of class D felony offenses five years after conviction or probation. I urge you to support this legislation because it will help fully integrate persons with eligible felony convictions into society and reduce the stigma associated with certain convictions.

According to the Bureau of Justice Statistics there are more than 20,000 individuals incarcerated in Kentucky prisons, and more than 60,000 are supervised on probation or parole. Nationally, the prison population has skyrocketed 600% over the last forty years and the number of Americans with felony convictions has grown to 19.8 million adults, or 8.6% of the adult population.¹ Although it might be reasonable to assume that individuals who have completed their sentences are free from conviction-related constraints, the American Bar Association (ABA) has identified thousands, of collateral consequences that can impact people long after they complete their criminal sentence.²

Collateral consequences are the additional penalties tied to a conviction that greatly impact an individual's capacity to engage politically, economically and socially upon reentry to society. These consequences include barriers to housing, education, and employment, felony disenfranchisement, and ineligibility for public benefits. Collateral consequences are distinct from direct consequences of convictions in that they are not factored into the calculation of punishment or sentencing, and are triggered outside the jurisdiction of the courts. While some collateral consequences may serve a goal of public safety, many merely make it more difficult for individuals to reenter the community.

Nationwide there is a growing bipartisan awareness of the long-term negative impact of collateral consequences and states are taking steps to combat the ill effects of these sanctions. From 2010 through 2012, 17 states expanded or established expungement policies.³ Recent documentation of expungement

¹ Shannon S., Uggan C., Thompson M., Schnitker J., and Massoglia M. 2011. "Growth in the U.S. Ex-Felon And Ex-Prisoner Population, 1948 to 2010." Paper presented at the 2011 Annual Meetings of the Population Association of America.

² Written Testimony for Amy Solomon, Senior Advisor to the Asst. Attorney General, Office of Justice Programs, U.S. Dept. of Justice. "EEOC to Examine Arrest and Conviction Records as a Hiring Barrier," Meeting of July 26, 2011, *available at* <http://www1.eeoc.gov/eeoc/meetings/7-26-11/solomon.cfm?renderforprint=1>.

³ States include: Arkansas, California, Colorado, Delaware, Georgia, Louisiana, Indiana, Maryland, Mississippi, North Carolina, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Texas, and Utah.

measures adopted demonstrates that this approach has garnered increasing acceptance.⁴ Recent legislation includes:

- **Louisiana** -- Senate Bill 403 authorized expungement for persons convicted of a first nonviolent felony offense for certain drug crimes including low-level drug possession, manufacturing, and selling offenses. This bill allowed individuals with one felony conviction for possession, distribution or possession with intent to distribute 28 grams or less of cocaine, amphetamines, oxycodone or methadone to apply to have their records expunged.⁵
- **Mississippi** – House Bill 160 authorized expungement relief for persons with certain first-time felony convictions, including drug possession, shoplifting, and writing bad checks. This provision allows eligible petitioners to apply for expungement relief for a felony conviction five years after completing the terms and condition of their sentence.⁶
- **Tennessee** -- House Bill 2865 authorized expungement relief for individuals convicted of certain first-time, non-violent and non-sexual misdemeanors, and Class E felonies after a five-year waiting period. At the time of application for expungement, the individual must have met all conditions of supervised or unsupervised release, including the payment of all fines and restitution.⁷

Many Kentuckians with prior convictions make a reasonable effort to be productive members of society. Effective public policy should encourage persons with criminal records to turn their lives around and engage in rehabilitative efforts that result in personal growth that strengthens public safety. Collateral consequences can hinder those efforts.

The Sentencing Project encourages members of the Kentucky House Judiciary Committee to vote in favor of House Bill 47. Authorizing expungement for eligible class D felony offenses after a five year waiting period will continue a trend observed in other states. House Bill 47 also moves Kentucky in the right direction by recognizing the potential for personal growth among persons with prior convictions. Eliminating the collateral consequences of conviction is an important step in the struggle to prevent recidivism and promote public safety.

Sincerely,



Marc Mauer
Executive Director

cc: Senate Judiciary Committee

⁴ Staff, “State Reforms Reducing Collateral Consequences for People with Criminal Records: 2011-2012 Legislative Round-Up,” The Sentencing Project, National Employment Law Project, Legal Action Center and Crossroad Bible Institute. September 2012. Available at:

<http://www.sentencingproject.org/doc/State%20Collateral%20Consequences%20Legislative%20Roundup%20Sept%202012%20%281%29.pdf>

⁵ An Act Relative to Expungement of Criminal Records. 2012 Louisiana Acts No. 776. June 12, 2012. Available at:

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=812321&n=SB403%20Act%20776>

⁶ An Act to Provide a Procedure to Expunge Certain Felony Convictions. 2010 Mississippi Acts No. 460. April 1, 2010. Available at: <http://billstatus.ls.state.ms.us/documents/2010/pdf/HB/0100-0199/HB0160SG.pdf>

⁷ Tennessee Gen. Laws ch. 1103. May 29, 2012. Available at:

<http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB2865&ga=107>