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TESTIMONY 2013
H.B. 2854

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of H.B. 2854, an effective policy that ensures youth who have atoned for their offense and gotten back on the right path have a fair shot at success.

TEXAS SHOULD REMOVE THE APPLICATION REQUIREMENT FOR YOUTH ENTITLED TO A RECORDS SEALING

The vast majority of youth who come into contact with the juvenile justice system learn from their mistakes and go on to become productive law-abiding citizens.¹ Indeed, county juvenile probation departments in Texas process tens of thousands of misdemeanor referrals each year for adolescent behavior that does not lead to future crime.² As a result, a main purpose of the juvenile justice system, as set out in the Texas Family Code, is "to remove, where appropriate, the taint of criminality from children committing certain unlawful acts."

However, despite existing safeguards, many juvenile records are still widely accessible, which creates serious burdens for youth who have gotten their lives back on track. Most juvenile records in Texas are not on "restricted access," so employers, landlords, and schools have easy access to this sensitive information. Even after a juvenile record is restricted, some information may continue to be accessible, especially through the FBI database.

KEY FINDINGS

- **Most juvenile records are fully open to employers, landlords, and schools because they are not on "restricted access."** The Department of Public Safety currently maintains records on 604,818 people who were arrested when they were younger than 17 years old. Only 40 percent of those records are on restricted access.³
- **Low-level youthful offenses seldom lead to serious crimes.** A tracking study by Texas' Legislative Budget Board revealed that only 2.3 percent of youth who entered deferred prosecution in 2009 were later incarcerated in the following three years.⁴
- **Sealing records – a process already established by law – provides significantly more protections than "restricted access."** The Department of Public Safety treats a sealed juvenile record the same as an adult expunction. The Department destroys all documentation and removes the record from the Texas system and the FBI system.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT H.B. 2854 BY REPRESENTATIVE MILES

- **H.B. 2854 automatically seals the records of misdemeanor youth after two years.** Current law entitles misdemeanor youth to have their records sealed after two years, but they must first make an application to the court. This application requirement creates an expensive barrier for most youth. **H.B. 2854 removes this unnecessary barrier by requiring a juvenile court to seal these records on the court's own motion.** The bill also creates a safeguard by requiring the juvenile court to provide notice to the prosecuting attorney; if the prosecuting attorney objects to sealing a youth's record, the court must hold a hearing to determine if the record should be sealed.

References on reverse

References

- ¹ See, e.g., T. Moffitt “Life-course-persistent versus adolescence-limited antisocial behavior” (2006).
- ² Legislative Budget Board “Statewide Criminal Justice Recidivism and Revocation Rates” (January 2013).
- ³ Texas Department of Public Safety response to open records request (January 2013).
- ⁴ Legislative Budget Board “Statewide Criminal Justice Recidivism and Revocation Rates” (January 2013).