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TESTIMONY 2013

S.B. 107

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of S.B. 107, which will honor the intent of court orders to seal the records of individuals who have successfully completed a term of deferred adjudication.

TEXAS MUST CLOSE THE LOOPHOLE ALLOWING DISCLOSURE OF RECORDS THAT A COURT HAS ORDERED TO BE SEALED

There are indisputable barriers to success for people with criminal records. Depending on the crime, a person convicted of an offense in Texas will have a difficult time, or be absolutely barred from, finding housing or employment; becoming licensed for a particular occupation; obtaining an educational loan; or receiving federal or state benefits for basic human needs.¹

In recognition of this, Texas courts have the option to order the criminal conviction of an individual to be sealed, especially if that person has successfully completed a term of deferred adjudication and petitioned for an order of non-disclosure.²

However, **the wording of the relevant Texas Government Code is ambiguous.** It prohibits “criminal justice agencies” from disclosing criminal history information that has been sealed. Yet, the Code does not include courts in its definition of what entities constitute criminal justice agencies,³ thereby **creating a loophole allowing courts to disclose criminal history information that is intended to be sealed.** Furthermore, it is the opinion of the Office of Court Administration that the current statute does “not prohibit courts and court clerks from disclosing information about a defendant’s conviction.”⁴

KEY FINDINGS

- **Criminal records compromise an individual’s ability to enter the workforce.**⁵ Individuals with a conviction cannot qualify for many employment positions that require licenses leaving many returning individuals scrambling to find employment.⁶
- In fact, **people with criminal convictions receive half as many job offers as job seekers without convictions,**⁷ which means that the sealing of an individual’s criminal record, if ordered by a court, has enormous impact on the employment options and future success of those individuals.
- **Criminal records also destabilize Texans by creating barriers to safe housing.** Under statutes in all 50 states, rental property owners may – but are not required to – screen for and refuse to rent to people with criminal backgrounds.⁸

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT S.B. 107 BY SENATOR WEST

- **S.B. 107 will allow the orders of the courts to be carried out, sealing the records of individuals who have successfully completed a period of deferred adjudication and petitioned the court.** These individuals have shown themselves to be motivated and law-abiding citizens, and sealing their records will allow them to continue productive lives and contribute to their communities in positive ways.
- **S.B. 107 will enhance faith in and respect for court orders, fostering respect for the criminal justice system.** This will encourage Texans to place more trust in the court system.

Citations

¹ National Institute of Justice and the American Bar Association, *National Inventory of the Collateral Consequences of Conviction*, 2012, <http://www.abacollateralconsequences.org/>.

² Tex. Gov. Code § 411.081(d)

³ Tex. Gov. Code § 411.082(3)

⁴ Ted Wood, Office of the Court Administration, *Problems With the Nondisclosure Statute*, Memorandum issued September 24, 2010.

⁵ Michael Pinard, *Reflections and Perspectives on Reentry and Collateral Consequences*, *The Journal of Law and Criminology*, Vol. 100, No. 3, Northwestern University, School of Law, 2010, p. 1215.

⁶ TEX. OCC. CODE, 53.021 (c)(3)

⁷ Pew Charitable Trust, *Collateral Costs: Incarceration's Effect on Economic Mobility*, 2010, p. 22, [http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Collateral_Costs\(1\).pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2010/Collateral_Costs(1).pdf).

⁸ Reentry Policy Council, *Report of the Re-entry and Community Policing: Strategies for Enhancing Public Safety*, March 2006, <http://www.urban.org/publications/411061.html>.