



1212 New York Ave. N.W.
Suite 900
Washington, D.C. 20005
202-525-5717

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Statement of Support

Emily Mooney, Resident Policy Fellow, Criminal Justice & Civil Liberties, R Street Institute
Jesse Kelley, Government Affairs Manager, Criminal Justice & Civil Liberties, R Street Institute

In SUPPORT of Senate Bills 681 and 682

June 24, 2020

Senate Judiciary and Public Safety Committee

Chairman and members of the committee:

As an institution deeply committed to limited, effective government, we at the R Street Institute strongly support legislation that seeks to keep juvenile records confidential and thus limit the lifetime harms associated with such records.

For one, juvenile records can bar young people from accessing education long after they've been adjudicated delinquent.¹ Colleges and universities have been known to dismiss potential applicants based on their criminal records. Even when a student is accepted and welcomed into a university, those adjudicated for certain drug offenses may struggle to afford school due to temporary disqualification from federal tuition assistance.

Juvenile records can also lock youth out of the employment opportunities necessary for their future success. They can disqualify youth from receiving professional licensing or serving our nation in the military. And when young people have publicly accessible records, they may be discounted from private employment opportunities without having the chance to explain their past or present circumstances.

While the overwhelming majority of states have taken steps to protect young people from such consequences, Michigan is one of less than ten states that allow the public to access most juvenile records.² In some counties, finding a young person's record takes little to no effort: A simple Google search can divulge a young person's name, case number, type of hearing, and the time and location of their appearance in court. Even when information is not easily found on Google, individuals can solicit it by making a request to the court.

¹Riya Shah and Jean Strout, "Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records," Juvenile Law Center, February 2016, pp. 10-11.
<https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>.

²Joy Radice, "The Juvenile Record Myth," *The Georgetown Law Journal* 106 (2018), p. 401.
<https://www.law.georgetown.edu/georgetown-law-journal/wp-content/uploads/sites/26/2018/02/zt100218000365.pdf>.

Fortunately, many young people in Michigan are eligible to have their record “set-aside” (cleared). However, the current process for having a juvenile adjudication set aside is confusing, complex, time-intensive and cost-inhibitive. Even if a young person successfully clears their adjudication, any publicized accounts of their court records can remain online. More needs to be done.

Senate Bills 681 and 682 will improve juvenile confidentiality, and thus young people’s ability to obtain a second chance, by ensuring that no juvenile records are publicly available as of January 1, 2021. Rather, access to these records will be limited to those individuals who could actually make use of such information in a productive manner: parents or guardians, law enforcement, prosecutors, the courts, and the Department of Health and Human Services during investigations of child abuse or neglect.

This proposal would build upon this protection by removing the current age requirement to be eligible for setting aside a juvenile record; and by creating a new, streamlined, automatic set-aside process. This process would allow for automatic set-asides for young people whose cases were closed two years ago or for those who have turned 18, depending on which is later, without any cost to the individual or their loved ones. Only adjudications for felony traffic and serious, violent offenses would be ineligible.

This legislative package presents Michigan with the chance to do right by young Michiganders and ensure that government responses to youthful indiscretions do not inflict life-long penalties on education, employment and community socialization. By automating the set-aside process for eligible cases and making all juvenile records non-public, this proposal will improve the ability of young people to claim a second chance.

Thank you for your consideration,

Emily Mooney
R Street Institute
emooney@rstreet.org

Jesse Kelley
R Street Institute
jkelly@rstreet.org