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Testimony from:
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In SUPPORT of SB 111 and 112

April 21, 2021

Senate Judiciary Committee

Chairman and members of the committee,

My name is Marc Hyden, and I am the director of state government affairs at the R Street Institute, which is a nonprofit, nonpartisan, public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including criminal justice reform, and that is why SB 111 and 112 are of special interest to us.

Oftentimes, having a mark on one's criminal record can serve as a lasting secondary penalty—wreaking havoc on the personal lives of rehabilitated individuals. In fact, such records can be a life sentence to those who have been arrested—making it more difficult for them to pass the background checks needed for employment and education, which around 90 percent of employers and 72 percent of colleges require.¹ This can result in unemployment or underemployment.

According to a 2016 report, each year roughly 30,000 people are arrested in Delaware.² Given that the state has a population of only around 1 million, an inordinate share of Delaware's citizenry struggle with a criminal history—many unnecessarily.³ Research suggests that people who remain crime-free for only a handful of years have a re-arrest rate no higher than the general population.⁴ As such, there does not seem to be a good justification to burden rehabilitated individuals with criminal records continually, especially if they were only accused of minor, nonviolent, nonsexual crimes.

Thankfully, many states have been moving away from the status quo and offering automatic expungement for those who have remained crime-free for a specified period of time, and for good reason. First, the expungement process is highly technical, requires court fees and often a costly attorney is needed, but when it is automated, it becomes greatly accessible to more people.

Second, expanding access to expungements and creating an automated system can create far better outcomes. Indeed, individuals earn about 25 percent more after their records are cleared, and those who have benefited from expungement are about as likely to commit another crime as the rest of the public—meaning expanded access to record clearance has been a success.⁵

Such a paradigm encourages those with records to make rehabilitation a priority, since they can be rewarded with record clearance, and giving many of those a clean slate provides them a better opportunity to obtain education and employment to care for themselves and their families.

The bottom line is that for far too long, Americans have perpetuated a broken criminal justice system, but it is heartening to see that Delaware is taking the initiative to improve a system so that it places a premium on redemption, rehabilitation and second chances. SB 111 and SB 112 do just this, and that is why it is critical that the legislature pass them.

Thank you for your time.

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¹ Nila Bala and Krystin Roehl, "The Case for Clean Slate in North Carolina," *R Street Shorts* No. 85, March 2020. <https://www.rstreet.org/wp-content/uploads/2020/03/Short-No.-85-NC-Clean-Slate.pdf>.

² Ryan Tack-Hooper, "Collateral Consequences Reform in Delaware," American Civil Liberties Union of Delaware, 2016. https://www.aclu-de.org/sites/default/files/wp-content/uploads/2016/05/Collateral-Consequences-Reform-in-Delaware-booklet-April-2016_small2.pdf.

³ United States Census Bureau, "Quick Facts Delaware," United States Department of Commerce, last accessed April 20, 2021. <https://www.census.gov/quickfacts/DE>.

⁴ Alfred Blumstein and Kiminori Nakamura, "'Redemption' in an Era of Widespread Criminal Background Checks," *National Institute of Justice Journal*, Issue No. 263, last accessed April 20, 2021. <https://www.ojp.gov/pdffiles1/nij/226872.pdf>.

⁵ Cherrie Bucknor and Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, Center for Economic and Policy Research, June 2016. <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>; Alfred Blumstein and Kiminori Nakamura, "'Redemption' in an Era of Widespread Criminal Background Checks." <https://www.ojp.gov/pdffiles1/nij/226872.pdf>.