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Testimony in support of HB 2684 from:  
Josiah Neeley, Texas Director, the R Street Institute

April 6, 2021

House Committee on Criminal Jurisprudence

Chair Collier and members of the committee,

My name is Josiah Neeley. I am the Texas director of the R Street Institute, a center-right, free market think tank that supports limited effective government in many areas, including criminal justice reform. We support HB 2684.

This is a straightforward piece of legislation that fixes a hole left in current law regarding expungement or non-disclosure of prior criminal history. Texas allows an individual who has their conviction for a certain offense set aside after completing a period of community supervision to petition to have the court make their criminal record regarding that conviction non-disclosable. While still available to law enforcement, healthcare institutions and other selected entities, the order of non-disclosure makes these records not available to the general public.

However, a quirk in the current law is leading to absurd situations. For example, an individual cannot have records non-disclosed for charges that were ultimately dismissed if they arose from the same event as an eligible offense. It only allows an individual to make one petition for non-disclosure. Similarly, an individual who is convicted of an offense and then later is acquitted of a similar offense may not be eligible for non-disclosure. These outcomes do not reflect the original intent of the law and serve no valid public purpose.

A criminal record can have a serious negative impact on an individual's future career and life prospects. Even acquittals and non-conviction court dispositions can, and are often used, as a basis to reject or fire job seekers and employees.<sup>1</sup> Court records, whether they contain a conviction or not, often impose negative consequences concerning access to housing, employment and education. This is seen not only on an individual level, but also at the local level where these harmful externalities ripple throughout communities.<sup>2</sup> The employment effects of criminal records also mean unrealized potential in the American economy. A report by the Center for Economic and Policy Research estimates that reductions in employment due to the proliferation of felony convictions cost the United States between \$78 billion



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and \$87 billion in lost economic output in 2014.<sup>3</sup> By contrast, a recent study found that when an individual has their criminal history expunged, they see a 25 percent increase in wages.<sup>4</sup>

The modest expansion in the availability of non-disclosure provided for in HB 2684 would help more individuals become productive members of society without compromising the public safety of the state.

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<sup>1</sup> Benjamin D. Geffen, “The Collateral Consequences of Acquittal: Employment Discrimination on the Basis of Arrests Without Convictions,” *Penn Law: Legal Scholarship Repository*, 20 (2017): 81. <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1206&context=jlasc>.

<sup>2</sup> COLLATERAL CONSEQUENCES: The Crossroads of Punishment, Redemption, and the Effects on Communities, U.S. Commission on Civil Rights, June 2019. <https://www.usccr.gov/pubs/2019/06-13-Collateral-Consequences.pdf>.

<sup>3</sup> 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>.

<sup>4</sup> Ibid.