

Legal Assistance Resource Center

◆ of Connecticut, Inc. ◆

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Testimony before the Judiciary Committee In Support of SB 704, AAC the Release, Sale and Accuracy of Conviction Information

My name is Sara Parker McKernan, and I am the Legislative Liaison/Special Projects Coordinator for the Legal Assistance Resource Center of Connecticut (LARCC). LARCC is the advocacy and support center for CT's Legal Services Programs. We represent the interests of very low-income residents of the state.

I am submitting this testimony in support of SB 704, An Act Concerning the Release, Sale and Accuracy of Conviction Information. This bill is the collaborative result of negotiations initiated by Senator Looney's office that included LARCC, the Judicial Department and the Connecticut Retail Merchants Association. These groups came together to modify the language of PA 07-243 and make implementation of that bill feasible.

Legal Services' clients include those with prior criminal records that severely limit their opportunities to obtain sustainable employment. Our attorneys assist people when applying for pardons before the Board of Pardons and Paroles and in understanding how the erasure statute applies to their criminal record. CGS 54-142(a) defines erased records as including criminal records that have been the subject of an absolute pardon, been dismissed, received a finding of not guilty, been nolleed, or received "youthful offender" status. Once records have been designated as erased, they are then defined as nonconviction information which is not disclosable to the public by a criminal justice agency holding this information. A pardon or an erased record effectively negates the underlying criminal history, allowing the individual to state on an employment application or other legal document that they have never been convicted of or pleaded guilty to a crime.

Last session, in an effort to develop policies that respond to the barriers faced by many Legal Services' clients when seeking employment, we focused on background reports issued to potential employers that often times contain information wrongly attributed to the subject of the report. More specifically, we have had numerous clients go through the process of being granted a pardon for past convictions only to have the information about that conviction still show up on a background check. This also applies to other convictions that should have been erased by operation of law as cited above. Having such criminal record information publicly available can be devastating to individuals who have worked hard to clear their record by obtaining a pardon or have been cleared of a charge.

Because of these concerns it becomes increasingly important that the consumer reporting agencies issuing background checks obtain the most up-to-date criminal record information available. At the time that PA 07-243 was passed, the Judicial Department was developing a

response to the Judicial Openness Task Force which was requiring them to post conviction information on their website. This presented an opportunity to require the consumer reporting agencies to use the daily updated information available from the Judicial Department's website, in any reports they issued. Unfortunately, the website once developed, was only able to provide conviction information with limited identifying information. Because of identity theft concerns, conviction information is only being posted with the name and year of birth of the subject of the conviction. Therefore it is impossible to accurately ascertain if the "John Doe" listed is the same "John Doe" that you are seeking information on.

Compounding this issue was the inability of the Judicial Department to disclose to the public any nonconviction information such as erasures, even if it is for the purpose of updating information that has already been disseminated. Agencies currently purchase conviction information from the Judicial Department with no accurate mechanism for that information to be updated. Many agencies simply add additional updated information to the data that they already have and the underlying charge still remains accessible despite being the subject of an erasure.

SB 704 seeks to remedy this complicated situation by requiring consumer reporting agencies and other entities (this information is also sold to other groups such as media outlets) to purchase updated information at least monthly from the Judicial Department and to update their records to permanently delete any records that have been released. This bill also allows the Judicial Department to disclose nonconviction information (such as erasures) to anyone purchasing criminal record information from them.

SB 704 represents a positive step in ensuring that only accurate and complete criminal record data is included in background checks for employment purposes.