



State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE**

**IN SUPPORT OF:**

**H.B. No. 5019 AN ACT CONCERNING FAIR FUTURES FOLLOWING ERASURE OF  
CRIMINAL RECORDS.**

JOINT COMMITTEE ON JUDICIARY  
March 9, 2020

The Division of Criminal Justice supports the concept of H.B. No. 5019, An Act Concerning Fair Futures Following Erasure of Criminal Records, and respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT to address two largely technical concerns.

The Division commends the Governor and his staff for the tremendous amount of time and effort devoted to examining the issues addressed by this legislation and working to craft a bill that promotes justice and fairness to all. Prosecutors in the course of the hundreds of cases that come through the courts each and every business day recognize that their decisions impact not only the defendant and the victim or victims, but the families of both and society as a whole. Each and every case is and must be examined on the specific facts and circumstances unique to that case if we are to pursue our constitutional obligation for the pursuit of justice for all. Such an examination includes consideration of the consequences of a criminal conviction for all involved.

The "clean slate" concept presented in H.B. No. 5019 is very much in tune with initiatives already being undertaken by the Division of Criminal Justice, most notably the Early Screening and Intervention (ESI) program. This pilot program, which the Division hopes to expand statewide, provides for intensive screening of criminal cases involving less-serious crimes at the earliest stages of the process to achieve disposition more quickly and in the best interests of all concerned. More often than not, this means referral to a social service agency or other program and dismissal of the criminal case so that in the end there is no criminal record. It essentially reaffirms the fundamental role of the prosecutor to determine what, if any, criminal charges are to be formally brought after the police make an arrest. If the prosecutor decides to bring no charges, there is no case to generate a criminal record and no record to erase.

"Clean slate" legislation, such as H.B. No. 5019, furthers the provision of justice by providing for the automatic erasure of certain criminal records under appropriate circumstances. The underlying concept of "clean slate" legislation clearly represents a policy decision that rests solely

with the General Assembly and the Governor in their separate and equal constitutional roles. However, the implementation and consequences of such a policy decision also bears on the constitutional duty of the prosecutor to pursue justice. Any "clean slate" legislation must be finely tuned, as this bill generally is, so that it does not infringe on our duty to protect public safety. This is recognized by the provisions of the bill dealing with domestic violence crimes. Blanket erasure of criminal records, particularly for felony and more serious crimes, also would raise serious public safety concerns and limit the ability of the criminal justice system to appropriately respond to the most serious offenders and, in particular, repeat serious offenders. H.B. No. 5019 as drafted generally strikes the correct balance.

The Division would recommend the Committee's JOINT FAVORABLE SUBSTITUTE REPORT to address two areas of concern: cases where orders of restitution or protective orders have been put in place. By way of explanation, it is not uncommon in some instances for a defendant to plead to disorderly conduct as a lesser offense with the condition that a standing criminal protective order be put in place. The question arises whether such a protective order can survive should the underlying charge be erased under "clean slate" legislation. Similarly, if a civil order requiring a defendant to provide restitution is issued, can that order survive if the underlying charge is erased? We stand ready to work with the Committee and the Administration to further discuss these concerns and draft appropriate revisions to the bill, if necessary.

In conclusion, the Division of Criminal Justice supports H.B. 5019 and respectfully recommends the Committee's JOINT FAVORABLE SUBSTITUTE REPORT to address the concerns identified herein. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.