Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Rebimbas, and distinguished members of the Judiciary Committee:

Thank you for the opportunity to testify, in concert with officials and staff across the Lamont Administration, in support of SB 16, An Act Concerning the Adult Use of Cannabis. I will focus my remarks on Sections 4 and 5 of the bill, which cover the erasure of criminal records related to possession of cannabis.

Overview
Eleven states have legalized the adult use of cannabis. With all the states bordering Connecticut seriously considering similar policy, the time has come for Connecticut to create a legal market that is well-regulated, protects consumers and the public at large, reduces the size and influence of the black market, and avoids the economic loss from state residents simply crossing the border to make purchases.

Legalizing cannabis means reckoning with the impact of our state’s criminalization of cannabis to date, and the disproportionate impact on communities of color. Arrests, convictions, and sentencings of individuals on cannabis-related crimes have created significant, wide-reaching negative impacts.

In most cases, a criminal conviction in Connecticut remains indefinitely on a person’s record regardless of the seriousness of the offense, the age of the conviction, or the individual’s progress toward rehabilitation. Because of well-documented racial and ethnic disparities in the criminal justice system, the permanence of most criminal convictions disproportionately affects communities of color.¹ As a result, a person’s criminal record can hinder his or her ability to obtain an education, employment, professional licensure, public benefits and housing long after they have completed their sentence. These statutory and regulatory barriers are called “collateral

¹ The Sentencing Project. “Racial Disparity.” https://www.sentencingproject.org/issues/racial-disparity/
consequences" of a criminal conviction. There are 558 collateral consequences in Connecticut statutes.\(^2\)

Between 2015 and 2019, at least 15 states enacted laws to expunge certain marijuana convictions.\(^3\) Clearing criminal records alleviates the burden of a criminal record, making employment and housing opportunities more attainable for people after they have completed their sentence. Sections 4 and 5 of this legislation help begin meaningfully to repair the harm caused by the criminalization of cannabis possession.

**Detail on Sections 4 and 5**

Under Section 4, a person convicted of possessing four ounces or less of cannabis on or after October 1, 2015 can petition a court for an order of erasure. Under this proposal, individuals who have been convicted of cannabis possession can provide the court either a copy of their arrest record or an affidavit to support their petition for erasure of the possession conviction. If the court finds the petition to be in order, it will direct relevant criminal agencies to erase the record. Similar petition policies have been enacted recently in other states that have legalized the adult use of cannabis. The process resembles existing law enabling people with convictions for offenses that were subsequently decriminalized to petition the court for record clearance.

Section 5 establishes an automated erasure process for people convicted of possession of four ounces or less of cannabis prior to October 1, 2015. This policy, which is mirrored in Governor Lamont’s proposed bill HB 5019, *An Act Concerning Fair Futures Following Erasure of Criminal Records*, establishes an automated process to clear criminal records for eligible convictions following a waiting period. This language establishes an automated and synchronized process across the Department of Emergency Services and Public Protection (DEPP), the Judicial Branch, and the Criminal Justice Information System (CJIS) to erase electronic criminal records for eligible convictions. Once that process is complete, record erasure notifications would be disseminated to all other relevant criminal justice agencies.

Three states—Pennsylvania, Utah, and New Jersey—have enacted similar automated record-clearance processes called “clean slate.” Since the end of the last legislative session, the administration has worked intensively with policymakers, officials, and staff across branches and agencies to plan a similar automated process for Connecticut. By putting an automated erasure process in place, Connecticut will be at the leading edge of states seeking to provide relief from criminal records at a greater scale and equity. The automated process will take the burden off the person with the criminal record from petitioning for erasure.

As part of Oregon and California’s legalization of adult use of cannabis, the states allowed people to petition for cannabis record clearance. State data indicate that a limited number of people availed themselves of the opportunity. A variety of factors could explain this, including a lack of awareness about the new process or even the possibility that the clearance process may seem daunting. Regardless, under an automated process, the state would eliminate the need for the individual to


have to reengage with the criminal justice system at all for purposes of the expungement. After receiving data during the implementation process about the limited use of the petition process, California enacted legislation requiring the state Department of Justice to review cases eligible for clearance and notify county prosecutors, who had up to a year to object before eligible records would be automatically cleared.⁴

To support the creation of an automated process in Connecticut under HB 5019, approximately $2 million has been included in the Governor’s budget from the IT Capital Investment Program bond authorization to address system costs in DESPP, CJIS, and the Judicial Branch.

**Proposed Joint Favorable Substitute (JFS) Language**

Recent concerns have been communicated to us on Section 5 regarding the inability, within current criminal justice electronic criminal record systems, to distinguish between a conviction for possession of cannabis versus other controlled substances. In these systems, a data field cites the relevant statute for the offense. Because the relevant statute doesn’t specify whether the possession of controlled substance involved cannabis, manual entry would be required to erase the eligible record, creating considerable cost and personnel impacts.

Proposed JFS language to Section 5 of the SB 16 to address this concern appears below. Because of the current statute is written, other non-hallucinogenic, non-narcotic controlled substances are included along with cannabis.

(Effective July 1, 2021) (a) Whenever prior to October 1, 2015, any person has been convicted in any court of this state of possession [of less than four ounces of a cannabis-type substance] under subsection (c) of section 21a-279 of the general statutes, all police and court records and records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such a conviction in any court of this state shall be erased by operation of law consistent with the provisions of section 54-142d of the general statutes, as amended by this act.

**Conclusion**

Legislation inspires when it has the potential to help people. The erasure sections of SB 16 will make a meaningful difference in the lives of people across our state who have experienced hardship resulting from the criminalization of cannabis. While no legislation can reverse the harm entirely, passage of this legislation would be a significant step toward repairing a broken system. It sends a signal to people, communities, and cities that have experienced hardship that as Connecticut moves forward on this overall policy, it will start to repair the impacts of past criminalization.

Considering the aim to help people, I’d like to end with reflections on a perspective a person recently shared with me. Thanks to the increased representation of justice-impacted people in state-level criminal justice discussions, I have gotten to know members of the ACLU Smart Justice, Congregations Organized for a New Connecticut (CONECT), and other groups. One man’s story

helped me appreciate that even as he has proceeded through the process of recovery, his past is indelibly captured in his criminal record. Even as he moves further and further into recovery, when he submits an application requiring a background check, this previous part of his life returns to haunt him. Just as the criminal justice system has evolved policy and practice to better apply effective interventions for people with behavioral health disorders, record erasure policy is needed to unleash the potential of people like this man whose experience I reference. In asking for erasure of records, they are seeking little more than the opportunity to engage in gainful employment and stable housing so that they can provide for themselves and their families.

Sections 4 and 5 of this bill represent bold next steps to begin to meaningfully repair the harm of past policy. For this reason, I urge support of SB 16, *An Act Concerning the Adult Use of Cannabis*. Thank you for your consideration.