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BOARD OF PARDONS AND PAROLES
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**Testimony of Carleton J. Giles
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Regarding:

Senate Bill 1019, An Act Concerning the Board of Pardons and Paroles, Erasure of Criminal Records for Certain Misdemeanor and Felony Offenses, Prohibiting Discrimination Based on Erased Criminal History Record Information and Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Misdemeanor Sentences.

**Joint Committee on Judiciary
March 10, 2021**

Good morning Senator Winfield, Representative Stafstrom, Senator Kissel, Representative Fishbein, and honorable members of the Joint Committee on Judiciary. My name is Carleton Giles, and I am the Chairperson of the Board of Pardons and Paroles (“Board”). I am here today to provide testimony regarding Senate Bill 1019, *An Act Concerning the Board of Pardons and Paroles, Erasure of Criminal Records for Certain Misdemeanor and Felony Offenses, Prohibiting Discrimination Based on Erased Criminal History Record Information and Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Misdemeanor Sentences*.

The Board supports the intent of SB 1019 as recognizing rehabilitation and removing barriers to reintegration are at the core of the Board’s work. We also recognize and are grateful that several of our more significant concerns from previous sessions have been addressed in this bill. However, we still have concerns with the bill as proposed. To summarize my testimony, the Board only supports automatic erasure for low level misdemeanors and believes that changes are necessary to certain provisions which impact the pardon power.

Automatic Erasure

First, the Board has concerns with the inclusion of more serious crimes in the bill’s automatic erasure provisions. Although the bill provides carve outs for family violence and sex crimes, it still includes more serious misdemeanors and C, D, and E felonies. These include felonies such as Manslaughter in the Second Degree; Assault in the Second Degree; Assault of an Elderly, Blind, Disabled or Pregnant Person or a Person with Intellectual Disability in the Second Degree with a Firearm; Stalking in the First Degree; and Intimidation Based on Bigotry or Bias in the First Degree.

The Board in its decision making process balances factors such as the severity of the offense, the needs of victims, community and individual safety, fairness, and the effective rehabilitation and reintegration of the individual. It is a responsibility that we take seriously and constantly strive to improve as new research unfolds. My staff and fellow board members understand that not all cases are the same. We recognize that in some cases, the endurance and public availability of criminal records, especially those documenting more serious misdemeanors and felonies, is absolutely necessary. To this end, the Board's position is that informed decision-making with victim input is necessary to ensure that criminal records for these more serious crimes are not inappropriately erased.

Additionally, the Committee may want to consider adding language which clarifies that the recipient of auto erasure not be serving any state sentence. Otherwise the bill would limit the ability of Board members and employees to review complete criminal histories as needed for evidence based parole decision-making.

Impact on the Pardon Power

The bill has both positive and negative effects on absolute pardons. We are concerned that, as currently drafted, this bill weakens the effect of an absolute pardon. First, the bill changes "case" to "offense" on lines 135 to 136 narrowing the scope of erasure resulting from a pardon. Second, inmate records held by the Department of Correction, records pertaining to court obligations held by the Board, and records of the prosecuting grand juror are erased for recipients of automatic erasure but not for recipients of absolute pardons. Because similar language has not been added to subsection (d), the result is that these types of records are not erased for the recipient of an absolute pardon. Instead, we recommend that you consider expanding the scope of subsection (d) of our erasure statute to apply to all "criminal history record information" as defined by section 54-142g. If the Committee chooses to continue to use language which addresses records held by the Department and the Board specifically, we request that the phrase "records pertaining to court obligations" on lines 147 to 148 be re-written to clearly identify which records it refers to.

Second, section two of this bill prohibits the Board from denying a pardon unless it provides written reasons and an explanation when doing so. The wording used in this section appears to alter the discretionary nature of the pardon power by prohibiting denial. We are not entirely clear on the legal ramifications of this particular wording and find it concerning. In addition, state law already requires the Board to state the reasons for denying a pardon in writing with less troublesome language. In addition, since last session the Board has adopted new policy which requires board members to provide a more detailed explanation of their denial reasons. In light of these concerns and the fact that existing law and agency policy require the Board to provide written denial reasons, we ask that the Committee remove this language altogether.

Third, the Board strongly supports this bill's anti-discrimination provisions. These provisions significantly expand legal safeguards for individuals with erased records which includes those individuals who have received an absolute pardon. We firmly believe that legal protections for individuals with erased records must provide a strong disincentive to those who might be tempted to rely on such records. However, section twelve's definition of the term "criminal history record information" is narrower than that used by subsection (a) of section 54-142g. Under section twelve of this bill, as written, the term "criminal history record information" only applies to the records of the

Judicial Department. This has the unintended effect of weakening the existing protections in place for individuals, such as pardon recipients, who have had their criminal records erased. We respectfully recommend that the Committee consider adopting section 54-142g's definition of "criminal history record information" instead.

Fourth, the Board applauds the proponents for including language which removes what has been a financial challenge for some individuals seeking an absolute pardon: the \$75 fee for criminal records. Although the Board does not charge an application fee for individuals seeking an absolute pardon, we require applicants to obtain this information from DESPP to help them accurately remember and report their criminal history on our online application form.

Finally, should the Committee act favorably on this bill, the Board respectfully requests that the Committee address the issues we have flagged and limit automatic erasure to low level misdemeanors. Thank you for your time and attention to this matter. We stand willing to work with the proponents to eliminate drafting issues and strengthen the bill's protections for individuals with erased criminal records.

I am happy to provide any additional information the Committee might require, or to answer any questions you might have.