Connecticut
Fair Housing Center

**TESTIMONY OF THE
CONNECTICUT FAIR HOUSING CENTER
IN SUPPORT OF S.B. 1019**

Members of the Judiciary Committee, thank you for the opportunity submit this

testimony in support of S.B. 1019, 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. My name is

Erin Kemple. I am the Executive Director of the Connecticut Fair Housing Center. Our mission

is to ensure that all people in Connecticut have access to the housing of their choice. We support

S.B. 1019 because this bill will make it easier for people with criminal records to access housing.

Expunging criminal records and making refusal to rent or sell to individuals with

expunged records is a racial and national origin justice issue. Because of the well-documented

racial and ethnic disparities in all phases of the criminal justice system, use of criminal records to

screen tenants may result in race and national origin discrimination and perpetuate racial

segregation. It also prevents people recently released from incarceration from accessing decent,

safe, affordable housing, even though stable housing is the leading factor in determining whether

someone can successfully re-integrate into society.

Landlords and others often cite recidivism statistics and public safety concerns as the

reason that they must have access to an applicant's full criminal record. In fact, the data make

clear that, for several reasons, a criminal record does not necessarily imply persistent offending

behavior or a risk to community safety.

- First, extensive research has found that the ability of criminal histories to accurately predict future offending behavior diminishes dramatically over time. One leading recidivism study estimated that the future arrest risk of people who have remained arrest-free for 7 years is virtually indistinguishable from the general population.[1] Other studies have reached similar conclusions, generally finding that after 5 to 7 years without an offense, a criminal record is no longer a useful predictor of future criminal justice contact.[2] Indeed, the overwhelming majority of repeat offenses occur within the first 6 months to a year.[3]

- Second, these studies crucially measure the time that has passed since the *offense* date (or the arrest date, which is closer in time to the offense date than the other options). Given that an offense or arrest can occur years before a conviction and decades before the end of a prison sentence, measuring based on release from confinement will extend the housing-related collateral consequences of criminal records well beyond the point when any increased risk has subsided. Furthermore, using conviction date will inevitably cause inequitable outcomes. If two people commit identical crimes on the same day, and years later they submit rental applications on the same day, fairness dictates that either *both* or *neither* will be rejected based on their identical criminal histories.

- Third, even within the initial period when the future arrest risk is higher than the general population, a criminal record does not necessarily indicate that a rental applicant presents an

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[1] Kurlychek, M.C., Brame, R. & Bushway, S.D. (2006), "Scarlet letters and recidivism: Does an old criminal record predict future offending?" *Criminology & Public Policy*, 5, 483-522; Kurlychek, M.C., Brame, R. & Bushway, S.D. (2007), "Enduring risk: Old criminal records and prediction of future criminal involvement," *Crime and Delinquency*, 53, 64-83.
[2] See, e.g., Blumenstein and Nakamura (2009), "Restoring rationality in punishment policy," in M. Tonry (Ed.), *The future of imprisonment*, Oxford University Press at pp. 61-80 (finding arrest risk of people with criminal records converged with that of nonoffenders after 3 to 8.5 years, depending on the age at first offense and the nature of the crime); *see also* Kazemian, L. & Farrington, D.P. (2018). Advancing Knowledge about residual criminal careers: A follow-up to age 56 from the Cambridge Study *in Delinquent Development. Journal of Criminal Justice, 57*, at pp. 1-10 (finding convergence at 5-7 years after previous arrest).
[3] *See Id.*

increased risk, as a number of other variables have a significant impact on the likelihood that a person will re-offend, such as the age at the time of the offense,[4] the number and frequency of past offenses,[5] substance abuse,[6] access to stable housing[7] and employment[8], marriage and social structure[9], and more. In other words, the future arrest risk for employed first-time offenders with strong social bonds would be lower than unemployed repeat offenders, and thus the point at which she is no more likely to be arrested than the general population is even earlier than the aforementioned 5-to7 year convergence point.

- Finally, even where the data show that someone has an increased arrest risk, in most cases that does not implicate an applicant's suitability for tenancy. For instance, in Connecticut, consistent with findings in other states, among the 1,547 individuals released on parole in 2008, 39% returned to prison in the 3 years after release, but only about a third of returns to prison occurred as a result of a new criminal offense; 59% resulted from technical (parole) violations, which include breaking curfew, changing residence without permission, or missing an appointment, actions that do not represent a public safety threat.[10]

In short, a criminal record alone is not a robust predictor of the public safety risk presented by a housing applicant, and its predictive value rapidly declines with time. There is no support in

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[4] Blumstein, A. & Nakamura, K. (2009), "Redemption in the presence of widespread criminal background checks." *Criminology*, 47, 327-60; Kurleycheck, Brame, and Bushway (2007), *supra* at fn. 1

[5] Blumstein, A., Farrington, D.P., & Moitra, S. (1985). "Delinquency careers: Innocents, desisters, and persisters." *Crime and Justice: An Annual Review of Research, vol. 6*
University of Chicago Press; Greenburg, 1991; Kurleychek, Brame, & Bushway, 2006).

[6] Dowden, C. & Brown, S.L. (2002). The role of substance abuse factors in predicting recidivism: A meta-analysis. *Psychology, Crime & Law*, 8, 243-264.

[7] Bratt, R.G. (2002). "Housing and family well-being." *Housing Studies*, 17(1), 13-26; Lee, B.A., Tyler, K.A. & Wright, J.D. (2010). The new homelessness revisited. *Annual Review of Sociology*, 36(1), 501-521.

[8] Kazemian, L., Farrington, D.P., & Le Blanc, M. (2009). "Can we make accurate long-term predictions about patterns of de-escalation in offending behavior?" *Journal of Youth & Adolescence*, 38, 384-400.;

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[10] Connecticut Office of Policy and Management (2015). Recidivism in CT, 2008 releases. Criminal Justice Policy & Planning Division, https://www.ct.gov/opm/lib/opm/cjppd/cjsac/20150424recidivsm_report_february_2015.pdf.

the leading literature on recidivism for a 10-year lookback period that does not begin to run until a person is convicted or released from prison. For this reason, the Connecticut Fair Housing Center urges your respective Committees and the Legislature to adopt a data-backed approach that limits landlords to considering only felony criminal convictions within the past 5 years, and that this be measured from the date of the offense.

To ensure that people of color in Connecticut have access to the housing of their choice, we ask that the Committee vote in favor S.B. 1019.