



TESTIMONY IN SUPPORT OF
S.B. NO. 403: AN ACT CONCERNING THE BOARD OF PARDONS AND PAROLES,
ERASURE OF CRIMINAL RECORDS FOR CERTAIN MISDEMEANOR AND FELONY
OFFENSES AND PROHIBITING DISCRIMINATION BASED ON ERASED CRIMINAL
HISTORY RECORD INFORMATION.

March 9, 2020

Judiciary Committee

Good morning Senator Winfield, Representative Stafstrom, and members of the Judiciary Committee. This testimony is submitted on behalf of the Center for Children's Advocacy (CCA), a non-profit organization affiliated with University of Connecticut School of Law concerning **S.B. No. 403: An Act Concerning The Board Of Pardons And Paroles, Erasure Of Criminal Records For Certain Misdemeanor And Felony Offenses And Prohibiting Discrimination Based On Erased Criminal History Record Information.** CCA commends the Committee for raising this important bill and urges it to pass it into law. CCA also encourages the Committee to also include within it, **a no cost amendment that our office is proposing to extend automatic erasure to juvenile records** (see proposed language attached.)

CCA provides holistic legal services to Connecticut's poorest and most vulnerable youth, including older youth in the 18 -24 year old age bracket, through both individual representation and systemic advocacy. Through our TeamChild Youth Justice, Racial Justice and Right Direction: Homeless Youth Advocacy Projects, CCA provides individual representation to youth at risk of or already involved in the juvenile justice or adult criminal systems. We collaborate with public defenders, probation officers, and a variety of direct service and community providers to improve overall outcomes by protecting the legal rights of these youth. CCA also plays a role in shaping juvenile justice policy through our membership on the Juvenile Justice Policy & Oversight Committee (JJPOC) and its various subcommittees. We also participate in and advocate for the young adult population with justice involvement in the cities where we do our racial justice work including Hartford, Waterbury, New Haven and Bridgeport.

CCA wholly supports S.B. 403 because Connecticut residents with a record who have done their time and rehabilitated, especially young adults, deserve the opportunity to move forward with their lives with a clean slate. The collateral consequences experienced by individuals with a criminal record are countless, and they are debilitating. It is no secret that these consequences disproportionately impact people of color and help to perpetuate systemic racism. Black people in the state of Connecticut are more than nine times likely to be incarcerated than white people; Latin people are more than three times likely. By passing clean slate, the Committee will remove the shackles that a criminal record places on people long after they have done their time.

Most importantly, SB 403 will help to ensure that young people in the 18 – 24 age range who have committed misdemeanor and non-violent felony offenses and who are most likely to rehabilitate¹ will have their record erased after a designated waiting period if they have not re-offended. Such automatic erasure will impart progress for the entire State of Connecticut, including all of its citizens with criminal records, as it will provide support to the economy and growing workforce by facilitating more opportunities for individuals whose records have been hindering their progress and, ultimately, reduce recidivism.

S.B. 403 takes an additional important step in protecting youth who did not have the benefit of Raise the Age

This bill takes a crucial step by extending the protections of the Raise the Age law to people who committed crimes prior to 2012 that are now maintained confidential and automatically erased as the result of the Raise the Age legislative change. Those young people who did not have the benefit of this law back then will have their records automatically erased dating back to 1999. Those with records before 1999 will be able to secure erasure through petition.

S.B. 403 should take one step further in protecting youth by providing for automatic erasure of juvenile records.

Current Connecticut law requires any youth adjudicated delinquent to petition to have their record erased. S.B. 403 should be amended to incorporate automatic juvenile record erasure as well. This no cost amendment, fully supported by all sides of the state's juvenile justice community, is an equally important component of clean slate that the Committee should incorporate into S.B. 403.²

While records of juvenile offenses are unavailable to the general public (see Conn. Gen. Stat. § 46b-146), they **still have unavoidable negative collateral consequences.**³ Despite confidentiality, juvenile records remain available to many state agencies and people within the court system, juvenile arrests records remain generally available to law enforcement, and juvenile records may also be inadvertently revealed. For these reasons, a juvenile conviction can negatively impact a young person's future by creating barriers to opportunities including employment and higher education.

As an example, I would like to share a personal experience of one of our clients, Jac. Jac joins us in requesting this amendment, as his juvenile record, before we helped him to get it erased, was used against

¹ A growing body of scientific research has underscored that brain development, particularly, the development of the prefrontal cortex responsible for impulsivity, emotions and risk-taking, is not fully developed until the age of 25. See, for example, Sara B. Johnson, Ph.D., M.P.H, Robert W. Blum, M.D., Ph.D., Jay N. Giedd, M.D., Adolescent Maturity & The Brain: the Promises & Pitfalls of Neuroscience Research in Adolescent Health Policy, J Adolesc Health. 2009 Sep; 45(3): 216–221.

² The last time a stand-alone bill proposing automatic juvenile record erasure was proposed in 2014, the bill was found to have no additional cost. See S.B. 366 and the OFA note, attached.

³ Shah, Riya Saha & Strout, Jean, "Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records," Juvenile Law Center, February 2016, found at: <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>

him to undermine his post high school goal of joining the army. While exploring this opportunity, he was compelled by recruiters to reveal the record of his juvenile offense, ruining his chance to pursue this opportunity to which he had so greatly aspired. We then assisted Jac with his juvenile record erasure through the petition process, and we are happy to say that he is now pursuing placement in another branch of the military. However, if he had had the benefit of automatic erasure prior to this, he would not have had to postpone this goal and dream unnecessarily.

Because S.B. 403 is good for all Connecticut residents, especially the 18-24 year old youth we represent, CCA wholly embraces this bill and encourages the Committee to pass it. However, **CCA also urges the Committee to create parity between the juvenile and adult court systems by adopting our requested amendment to provide for automatic juvenile record erasure.**

Thank you for your consideration, and please do not hesitate to contact us with questions, concerns or comments.

Respectfully submitted,

/s/

Marisa Halm, Esq.

Director, TeamChild Juvenile Justice Project

PROPOSED AMENDMENT: S.B. 403:

Section 46b-146 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2020):

(a) (1) Whenever [any] a child has been adjudicated [convicted] as delinquent [, has been adjudicated a member of a family with service needs] for the commission of a serious juvenile offense or has signed a statement of responsibility admitting to having committed a [delinquent act] serious juvenile offense, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to [whom] which the child has been committed by the court, such child, or the child's parent or guardian, may file a petition with the Superior Court [. If such] for erasure of records pursuant to this subdivision. The court shall order all police and court records pertaining to such child to be erased if the court finds [(1) that (A) at least [two years or, in the case of a child convicted as delinquent for the commission of a serious juvenile offense,] four years have elapsed from the date of such discharge, [(2) that] (B) no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, [(3) that] (C) such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such [two-year or] four-year period, [(4) that] (D) such child has not been convicted as an adult of a felony or misdemeanor during such [two-year or] four-year period, and [(5) that] (E) such child has reached eighteen years of age. [, the court shall order all police and court records pertaining to such child to be erased.]

(2) Whenever a child has been adjudicated as delinquent for the commission of a delinquent act other than a serious juvenile offense, has been adjudicated a member of a family with service needs or has signed a statement of responsibility admitting to having committed a delinquent act other than a serious juvenile offense, and has subsequently been discharged from the supervision of the Superior Court or from the custody of the Department of Children and Families or from the care of any other institution or agency to which the child has been committed by the court, the court shall order all police and court records pertaining to such child to be erased on the second day of January of each year or on a date designated by the court without the filing of a petition if the court finds that (A) at least two years have elapsed from the date of such discharge, (B) no subsequent juvenile proceeding or adult criminal proceeding is pending against such child, (C) such child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during such two-year period, (D) such child has not been convicted as an adult of a felony or misdemeanor during such two-year period, and (E) such child has reached eighteen years of age.

(3) Upon the entry of such an erasure order, all references including arrest, complaint, referrals, petitions, reports and orders, shall be removed from all agency, official and institutional files, and a finding of delinquency or that the child was a member of a family with service needs shall be deemed never to have occurred. The persons in charge of such records shall not disclose to any person information pertaining to the record so erased, except that the fact of such erasure may be substantiated where, in the opinion of the court, it is in the best interests of such child to do so. No child who has been the subject of such an erasure order shall be deemed to have been arrested ab initio, within the meaning of the general statutes, with respect to proceedings so erased. Copies of the erasure order shall be sent to all persons, agencies, officials or institutions known to have information pertaining to the delinquency or family with service needs proceedings affecting such child.

(b) Whenever the case of a child who is charged with being delinquent or being a member of a family with service needs is dismissed, [as not delinquent or as not being a member of a family with service needs,] all police and court records pertaining to such charge shall be ordered erased immediately, without the filing of a petition.

(c) Nothing in this section shall prohibit the court from granting a petition to erase a child's records on a showing of good cause, after a hearing, before the [time] date when such records could be erased.

Attachment A.

OFFICE OF FISCAL ANALYSIS

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<http://www.cga.ct.gov/ofa>

SB-366

AN ACT CONCERNING THE ERASURE OF RECORDS IN DELINQUENCY AND FAMILY WITH SERVICE NEEDS MATTERS.

AMENDMENT

LCO No.: 4450

File Copy No.: 540

Senate Calendar No.: 369

OFA Fiscal Note

REMOVES COST IN UNDERLYING BILL

The amendment postpones the effective date of the underlying bill to October 1, 2015 and eliminates the cost of \$54,550 in FY 15 and \$57,287 in FY 16 to the Division of Criminal Justice and \$18,697 in FY 15 and \$19,632 in FY 16 to the Office of the Comptroller for fringe benefits.

The elimination of the cost is based upon usage of a new case management system. This system, which is under development, is anticipated to be completed between April - October 2015.

The preceding Fiscal Impact statement is prepared for the benefit of the members of the General Assembly, solely for the purposes of information, summarization and explanation and does not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

