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October 21, 2019

To: Ohio House of Representatives, Commerce and Labor Committee

From: Patrick M. Higgins, Staff Attorney, Legal Aid Society of Columbus

Re: Testimony in Support of House Bill 263

Chair Manning, Vice Chair Dean, Ranking Member Lepore-Hagan, and Members of the House Commerce and Labor Committee:

Thank you for the opportunity to testify as a proponent of House Bill 263. My name is Patrick Higgins and I am a Staff Attorney at the Legal Aid Society of Columbus, a non-profit law firm created in 1953 to provide legal aid in civil legal matters that ensures access to justice for economically disadvantaged people in Central Ohio through advocacy, education, and empowerment. Our vision is a just and fair society where we all have the opportunity to thrive and have lives free of poverty.

It is with that vision in mind that I, as a part of our Reentry team serving individuals with criminal records, support the Fresh Start Act of 2019.

Most of my work is focused on removing barriers to employment for individuals with criminal records. We call these collateral sanctions—effectively penal barriers that keep people out of work or better work even after they have completed the sentence imposed for their conviction. One-in-six Ohioans has a felony or misdemeanor conviction record. This results in nearly two million Ohioans who, even after completing the sentence for their convictions, run into hundreds of collateral sanctions that can be triggered by convictions years beyond the end of their cases. Like all parts of the criminal justice system locally and nationally, these impacts fall more heavily on poor people of color.

While employment is critical to the self-sufficiency of all Ohioans who are able to work, it is especially important to those who face the many hurdles of reentry after incarceration. One of these hurdles is access to stable, well-paying jobs that give dignity to the worker and can support them and their families. Because licensed work is often a key to such pay and stability, the changes in House Bill 263 notably demystifies and makes fair a process that is currently much less accessible.

The urgency for legislation like House Bill 263 is exemplified by my client, Tim (a pseudonym used to prevent further detrimental effects of his conviction record). Tim was a licensed pesticide applicator, permitting him to help run his family business by applying pesticides and performing other methods of tree care. His license and business lapsed a number of years ago due to an illness in the family. At the same time, Tim struggled with an alcohol addiction that resulted in a 3rd degree felony OVI conviction. At no time was he arrested or convicted in relation to his work as an applicator. Tim was sentenced to three and a half years in prison where he got sober and focused himself on returning to work. He thought focusing on recovery and job





readiness instead of wasting away in prison would be the key to success after completing his sentence. He had the necessary skills and experience to work in his field and picked up new credentials from coursework and training tailored to this work during his incarceration. As his release neared, Tim gathered all of the necessary paperwork to apply for his commercial applicator license. Tim was ready to return to his community and to get to work.

Tim was devastated to learn that his license application was denied by the Department of Agriculture because of his felony record. Despite his sobriety, evidence of rehabilitation, and obvious fitness to perform the duties required by the licensed occupation, the Department—and ultimately the Court of Common Pleas—determined that O.R.C. §921.23 authorized the denial simply because he has a felony record. The language of the statute permits the suspension or denial of a license when a person has been convicted of a misdemeanor involving moral turpitude or of a felony.

When I last spoke to Tim, the availability of unlicensed work was drying up with the season. He is struggling to pay his bills and will need to apply for SNAP benefits to keep food on the table this winter. My office is working with him on other means of overcoming barriers to employment, but the failure to view him as an individual with skills instead of as a felon has already taken its toll. He remains poor and his community remains without the service of a commercial applicator.

While I must speculate about the impact that House Bill 263 would have had on Tim, I believe that this legislation would have set him on a path to prosperity rather than poverty. Even if the Department of Agriculture were to establish a nexus between an OVI conviction and the duties and responsibilities of a commercial applicator, I firmly believe that a review of his fitness to perform the duties of the occupation and overwhelming evidence of mitigating rehabilitation would result in approval of his application.

In working on his case, I—like Tim—was frustrated and confused by the licensing agency's inability to look at him as the person who he had become rather than just a person with a felony record. I was also dumbfounded by the agency's wide discretion for denial of anyone with a felony record, regardless of the conviction's nexus with the job. With clear standards for how criminal convictions will affect eligibility for occupational licensure, applicants and their advocates will be prepared with the information they need to submit a meaningful application or seek alternative career paths instead of wasting their time and resources pursuing an inaccessible field. Further, licensing boards will be required to take an introspective look at and reconsider the many restrictions that keep people like Tim out of work.

The best way to evaluate individuals with criminal records is exactly that, as individuals. With clear rules from our licensing agencies and individualized consideration of applicants as people with more to their fitness than just their conviction records, House Bill 263 accomplishes that end. House Bill 263 would help Tim and the many Ohioans who will follow him with similar stories.

Respectfully,

Patrick M. Higgins
Staff Attorney
The Legal Aid Society of Columbus