



Office of the Ohio Public Defender

Timothy Young, State Public Defender

Testimony in Support of SB160 Expungements of Old Records Sponsor Senators O'Brien and Rulli

Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee. My name is Niki Clum, and I'm the Legislative Liaison for the Office of the Ohio Public Defender. Thank you for the opportunity to provide proponent testimony regarding Senate Bill 160 (SB160).

SB160 allows any misdemeanor or felony, excluding those delineated in the bill, to be expunged after the expiration of the required waiting period. The waiting period is: 10 years for third, fourth, and fifth degree felonies and misdemeanors; 15 years for second degree felonies; and 20 years for felonies of the first degree. The court can only deny the application for expungement because (1) the applicant failed to establish that they have not been convicted of a disqualifying offense, as defined by the bill, or (2) the court finds the applicant is a threat to society.

The terms sealing and expunging are often used interchangeably, however, they are different processes that result in very different levels of access to an individual's criminal record. Ohio Revised Code 2953.31-2953.62 governs the sealing of records. During a sealing hearing, the court must weigh the government's interests in maintaining the record of conviction against the defendant's interests in having the record sealed.¹ When a court orders a record sealed, the record is then filed in an alternate, secure location.

¹ *State v. Rojas*, 180 Ohio App. 3d 52, 2008-Ohio-6339.

The problem with having one's record sealed is that certain agencies and people, as delineated by the legislature,² can still access the record. The record also still exists in the county clerk's office. According to the Ohio Civil Impacts of Criminal Convictions (CIVICC) Database, the Revised Code contains 37 statutes that require applicants to disclose sealed convictions when applying for employment or a professional license. Therefore, even after having one's record sealed, many individuals still have trouble obtaining meaningful employment. According to the Ohio Department of Rehabilitation & Correction, approximately 2 million citizens, 17% of Ohioans, have a felony or misdemeanor conviction. That is why Ohio needs SB160.

Expunging a record means the court orders the record to be physically destroyed. Expunged records may not be used for any purpose and must be removed from the Law Enforcement Automated Data System (LEADS), and courts must indicate that no record exists when asked. Currently, expungement is only available for juvenile records and a certain few adult convictions, including prostitution and solicitation where the person is found to be a victim of human trafficking.

Witnesses have testified before this committee that individuals with felony convictions have no problem obtaining employment in Ohio. While some people with criminal records can obtain gainful employment, many, particularly those with felony convictions, are limited to part-time or minimum wage jobs. Individuals with criminal records, even sealed criminal records, are often prevented from obtaining the professional licenses necessary to work in

² Those who can see sealed records include: Prosecutors, judges and police for future criminal investigations, judges considering convictions for enhanced subsequent sentences, employers in law enforcement, jobs working with children or other protected groups, real estate institutions, and professional licensing boards (i.e. Ohio State Medical Board).



“fast-growing industries such as health care, human services and some mechanical trades.”³
The ability to expunge criminal records will give these Ohioans access to a career, not just a job. SB160 will help many individuals make a better life for themselves and their family.

That is also why the Office of the Ohio Public Defender not only supports SB160 but encourages the bill sponsors to take the suggestions of Senator Lehner and Senator Thomas and allow more people to benefit from the bill by limiting the convictions that are not eligible for expungement. Thank you for the opportunity to testify in support of SB160. I am happy to answer any questions at this time.

³ Tracy Jan, *After Prison, More Punishment*, The Washington Post, September 3, 2019, <https://www.washingtonpost.com/graphics/2019/business/jobs-after-prison-rhode-island-recently-occupational-licensing/?noredirect=on>.

