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To: Senate Community Revitalization Committee
Fr: Kevin Werner, Policy Director
Re: Proponent testimony, HB 50
October 11, 2023

Chair Johnson, Vice-Chair Hoagland, Ranking Member Sykes and members of the committee, thank you for the opportunity to offer proponent testimony on HB 50, a measure to establish certificates of qualification for housing (“CQHs”). On behalf of the Ohio Justice & Policy Center, we are grateful to Representatives Seitz and Humphrey for introducing this needed legislation. My name is Kevin Werner and I am the policy director at OJPC. We are a nonprofit law firm with locations in Cincinnati and Columbus, whose mission is to promote fair, intelligent, and redemptive criminal justice systems.

Core Components of the CQH Legislation

Establishing a CQH policy will be a step forward in reducing recidivism and homelessness among people with criminal records. The CQH bill would provide relief for most in-state convictions, both felonies and misdemeanors, which create state housing barriers to reduce inequitable relief and financial barriers to obtaining relief. The bill provides standards to guide a court’s determination for granting or denying the certificate petition to prevent geographic disparities in certificate issuances based on the deciding court. The CQH bill creates a rebuttable presumption of eligibility of the petitioner if certain requirements are met. In addition, to prevent recidivism by supporting housing stability, it gives the court a reasonable deadline to review certificate applications before making determinations.

Importantly, the bill limits the legal liability of public and private housing providers that supply housing to people with a CQH to reduce housing discrimination based on a person’s criminal record. Public and private housing providers under the bill consider the CQHs on a case-by-case basis when making housing application determinations. Also, only subsequent felonies or misdemeanors of violence would revoke the CQH issuance, so the law wisely ensures the relief will stick for those who continue to be law-abiding citizens.

Core Components to Improve the CQH Legislation

OJPC is a strong supporter of the establishment of CQHs, and we have offered ideas to make improvements to an already-excellent public policy. We want this policy to be the North Star and a model for states around the country. Our suggestions for improvements, some which have been adopted by the House, are in service to that broader vision.



Merely having a CQH policy in the Ohio Revised Code is not effective unless the policy includes components to ensure it is successful and improves people’s lives. We are grateful to the sponsors for changing the eligibility criteria pertaining to the initial waiting period. Eliminating, or at least reducing, the waiting period before an individual can petition for a CQH is beneficial, especially for individuals recently released from incarceration. When people released from incarceration are unstably housed, homeless, or live in a high-crime neighborhood, they are more likely to recidivate.ⁱ To prevent recidivism, the CQH policy should support immediate housing stability upon release, even while under post-release control.ⁱⁱ People under community control should be eligible for a CQH because they still need to obtain housing immediately after release from incarceration. In fact, more people are under supervision than released from custody; in June of 2021, 29,631 people were under the supervision of the Adult Parole Authority while in 2020, only 20,343 people were released from ODRC custody.ⁱⁱⁱ

There are minor tweaks to the legislation that we suggest, although the adoption of suggestions does not change our support for the bill.

1. **Permit the issuance of a temporary certificate** of relief when the applicant is released from confinement but still serving the remainder of their sentence (e.g. while the person is on community control, or has outstanding fines). Then, the certificate of relief should become permanent, unless the individual is convicted of a subsequent felony or misdemeanor of violence, after the court no longer has the authority to revoke the applicant’s sentence.^{iv}
 - Court costs are not part of a criminal sentence.^v To avoid inconsistent application, if a waiting period is imposed, the bill should explicitly state that court costs are not part of the “sanctions imposed” that would prevent CQH petition eligibility.
2. **Explicitly state that an individual files one CQH petition for all their conviction-related housing barriers.**
 - For efficiency and cost effectiveness, applicants should be permitted to submit one certificate application to address all of their convictions.^{vi}
3. **Limit the public safety factor to only apply when the underlying offense relates to public safety.**
 - CQHs regard housing, a civil matter related to an individual’s financial stability, so considering public safety based on past criminal matters is irrelevant to a CQH petition.^{vii}
4. **Require written notice of right to appeal and any conditions if denial of petition occurs.**
 - Courts should be required to provide their reasons in writing for denying an application, and that petitioner has the right to appeal under abuse of discretion standard, regardless of the type of conviction.^{viii}



5. Consider reducing the CQH petition requirements.

- To encourage individuals to petition for a CQH, the application process should not be intimidating. Like a CQE, a CQH petition should not require a listing of ten-years of residence history, references and endorsements, or the contact information of an immediate family member or person with whom they have a close relationship.

6. Require courts, correctional facilities, and probation officers to inform defendants and people with criminal records about the CQH petition.

- Before a defendant pleads guilty, at sentencing, and upon release, the court, correctional facility, or probation officer should inform the defendant of the collateral consequences that they will face from having a criminal record and inform them of the application for a certificate of relief for housing along with its eligibility requirements.^{ix}

7. Omit prosecutor notification from the CQH petition process.

- A CQH petition would already result in notifying the courts of conviction. Prosecutors may not need to be a part of cases that involve civil collateral consequences after convictions and sentences were imposed. If the goal of CQHs is to reduce recidivism and homelessness, the CQH petition process does not need to be an adversarial one.

8. Mandate an effectiveness review of the statute every few years, or explicitly require the ODRC to update its policies to make CQHs more effective.

- The CQH statute should mandate an effectiveness review of the statute every few years and prompt amendments to be made to the statute or policy accordingly.^x

In closing, I want to reiterate OJPC's strong support of this legislation. The opportunity to reach your full potential should not depend on whether you made a mistake in your past. Here in Ohio, we value hard work, determination, and opportunity. Also, we value redemption because people are much more than their worst mistake. Our policies should reflect our values and one way to do that is to adopt CQH legislation. Thank you for the opportunity to present testimony in favor of HB 50.

ⁱ PATRICIA MCKERNAN, Homelessness and Prisoner Reentry: Examining Barriers to Housing Stability and Evidence-based Strategies that Promote Improved Outcomes, J. COMMUNITY CORRS. 7 (2017), https://voa-production.s3.amazonaws.com/uploads/pdf_file/file/2238/Homelessness_and_Prisoner_Re-Entry.pdf.



ⁱⁱ MARGARET LOVE & DAVID SCHLUSSEL COLLATERAL CONSEQUENCES RESOURCE CENTER, Reducing Barriers to Reintegration: Fair Chance and Expungement Reforms in 2018, at 14 (2019), <http://ccresourcecenter.org/wp-content/uploads/2019/01/Fair-chance-and-expungement-reforms-in-2018-CCRC-Jan-2019.pdf>.

ⁱⁱⁱ DEP'T OF REHABILITATION & CORRECTION, 2021 ANNUAL REPORT (2022), at 19, 38, <https://drc.ohio.gov/Portals/0/ODRC%20Annual%20Report%202021.pdf>.

^{iv} *N.Y. Correct. Law § 702 (Consol. 2022)*; see MARGARET COLGATE LOVE, COLLATERAL CONSEQUENCES RESOURCE CENTER, The Many Roads from Reentry to Reintegration: A National Survey of Laws Restoring Rights and Opportunities after Arrest or Conviction 73 (2022), https://ccresourcecenter.org/wp-content/uploads/2022/03/MRFTRTR_3.21.22.pdf.

^v THE SUPREME COURT OF OHIO, OFFICE OF JUDICIAL SERVICES, Collection of Court Costs & Fines in Adult Trial Courts (May 2021), <https://www.supremecourt.ohio.gov/docs/Publications/JCS/finesCourtCosts.pdf>.

^{vi} LOVE, supra note 4, at 73.

^{vii} See *DuBose v. McGuffey*, Slip Opinion No. 2022-Ohio-8; Ohio Supreme Court Rules that Consideration of “Public Safety” Is not an Allowable Factor for Setting the Financial Condition of a Bond, DENNIS LOCONTI LAW, LLC (Feb. 5, 2022), <https://www.dennislocontilaw.com/blog/2022/02/ohio-supreme-court-rules-that-consideration-of-public-safety-is-not-an-allowable-factor-for-setting-the-financial-condition-of-a-bond/>.

^{viii} LOVE & SCHLUSSEL supra note 2, at 14.

^{ix} See *2021 N.M. Laws 58*; OHIO DEPT. OF REHAB. & CORR., OHIO CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT (CQE): ANNUAL REPORT 2021, at 4 (2022), <https://drc.ohio.gov/Portals/0/2021%20CQE%20Annual%20Report.pdf>; ALEC C. EWALD, Rights Restoration and the Entanglement of US Criminal and Civil Law: A Study of New York’s Certificate of Relief, 41 L. & SOC. INQUIRY 5, 15 (2016); AMERICAN BAR ASSOCIATION, Formal Opinion 486: Obligations of Prosecutors in Negotiating Plea Bargains for Misdemeanor Offenses 15 (2019), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_opinion_486.pdf.

^x DAVID J. NORMAN, Stymied by the Stigma of a Criminal Conviction: Connecticut and the Struggle to Relieve Collateral Consequences, 31 QUINNIPIAC L. REV. 985, 1035 (2013)