



Kathleen C. McGarvey, Esq.
Executive Director

Columbus Office
1108 City Park Avenue
Columbus, Ohio 43206
(614) 224-8374 phone
(614) 224-4514 fax
www.columbuslegalaid.org

Marion Office
150 Oak Street
Marion, Ohio 43302
(740) 383-2161 phone
(740) 387-1022 fax
Board of Trustees

Janica A. Pierce Tucker, Esq.
Taft, Stettinius & Hollister LLP
President

Molly S. Crabtree, Esq.
Porter, Wright, Morris & Arthur LLP
Immediate Past President

David W. Alexander, Esq.
Squire Patton Boggs

Thomas J. Bonasera, Esq.
Dinsmore & Shohl LLP

John Boyer, Esq.
Nationwide Insurance

Brenda Drake, Esq.

Nicol Ghazi
Muslim Family Services of Ohio

John P. Gilligan, Esq.
Ice Miller, LLP

John C. Hartranft, Sr., Esq.
Porter, Wright, Morris & Arthur LLP

Michelle Heritage
Community Shelter Board

J. Todd Kennard, Esq.
Jones Day

Tanya L. Long
Community Representative

Jane Higgins Marx, Esq.
Carlie, Patchen & Murphy LLP

Philip R. Moots, Esq.
Newhouse, Prophater, Letcher & Moots, LLC

Shawn J. Organ, Esq.
Organ Law LLP

The Honorable Jaiza N. Page
Franklin County Common Pleas Court

Deborah D. Pryce, Esq.
Ice Miller, LLP

Frank A. Ray, Esq.
Frank A. Ray Co., LPA

Lisa Pierce Reisz, Esq.
Vorys, Sater, Seymour & Pease LLP

Jesse Rowe
Plante & Moran, PLLC

Leah Sellers, Esq.
Sellers Law, LLC

Anne Marie Sferra, Esq.
Bricker & Eckler LLP

Marion Smithberger
Columbus Bar Foundation

Debra Willet, Esq.
Cardinal Health

Sue Wolfe
United Methodist Church and Community
for All People

September 23, 2020

To: Ohio Senate; Transportation, Commerce and Workforce Committee

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

Re: Testimony in Support of House Bill 263

Chair McColley, Vice Chair Johnson, Ranking Member Antonio, and Members of the Senate Transportation, Commerce and Workforce 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.

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 workers 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 demystify and make 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 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, voluminous 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, he was still struggling to make ends meet and had started looking into public benefit programs to maintain a semblance of stability. 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 taken a significant toll. He remains poor, he feels wronged by our licensing and legal systems, 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 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