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PROPONENT TESTIMONY IN SUPPORT OF HOUSE BILL 64

TO: Community and Family Advancement Committee, The Ohio House of Representatives
Chairman Ginter, Vice Chair Conditt, Ranking Member Boyd, Representative Antani, Representative Barnes, Representative Brenner, Representative Dean, Representative Greenspan, Representative Hood, Representative Howse, Representative Kent, Representative LaTourette, Representative Sheehy, Representative Vitale, Representative Young

FROM: Patrick M. Higgins, Ohio Legal Assistance Foundation Justice for All Fellow, Ohio Poverty Law Center (OPLC)

DATE: April 26, 2017

Chairman Ginter, Vice Chair Conditt, Ranking Member Boyd, and Committee Members,

My name is Patrick Higgins and I am an Ohio Legal Assistance Foundation Justice for All Fellow at the Ohio Poverty Law Center. OPLC is a nonprofit law office advocating for policies to reduce poverty and protect and expand the legal rights of low-income Ohioans. OPLC supports House Bill 64 because of the crucial step that it takes toward combatting barriers that weigh more heavily on and occur more often to Ohioans living, working, and raising their families in poverty. House Bill 64 improves fairness in Ohio's justice system by creating a system that rights a wrong against people wrongfully arrested or convicted.

Low-income people, especially low-income people of color, face a higher risk of being arrested and incarcerated than other Americans.¹ Fines and arrest records keep people out of meaningful work and secure housing. As pointed out by a study published in the *AMERICAN JOURNAL OF SOCIOLOGY*, the likelihood of a callback for an entry-level position drops off by half for applicants with an arrest or conviction history.²

Imagine discovering that a wrongful arrest or conviction record is holding you and your loved ones back from the stability and security offered by gainful employment and safe housing. Now, beyond that,

1 Karen Dolan with Jodi L. Carr, *THE POOR GET PRISON: THE ALARMING SPREAD OF THE CRIMINALIZATION OF POVERTY*. INSTITUTE FOR POLICY STUDIES. Available at <http://www.ips-dc.org/wp-content/uploads/2015/03/IPS-The-Poor-Get-Prison-Final.pdf>.

2 Devah Pager, *The Mark of a Criminal Record*, *AMERICAN JOURNAL OF SOCIOLOGY* Volume 108 Number 5 (March 2003): 937-75. Available at http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf.

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imagine that your record is rooted in the fact that you were mistaken for another person and arrested, and perhaps tried and convicted. You—not the person or governmental entity that made the mistake—are tasked with fixing this problem yourself. The process costs time and money and involves a court system that is probably intimidating and confusing to a lay person. It is a matter of fairness that the burden of correcting such an error should not fall upon the person who has been wrongfully identified, arrested, or convicted.

The automatic expungement of criminal records based upon mistaken identity is a critical advancement in removing barriers to employment and housing caused by criminal records. In this instance, it is an easy decision if one believes in fairness in the criminal justice system and that people wrongfully arrested or convicted should automatically achieve a clean slate without going through burdensome and costly legal maneuvers to clear their record.

The advancement offered in House Bill 64 is critical because arrest and conviction records are major barriers to the most important financial element in raising and keeping families out of poverty: employment. When Ohioans are unable to gain employment because of a criminal record, they will not be able to achieve any measure of economic security. Furthermore, a criminal record can cost an employed person their job or make it impossible to find better employment that could support a career pathway to a family-supporting job.

Even when not convicted, people who have been arrested often find out that a costly and time consuming legal process is necessary to clear their record. This is especially burdensome for individuals who are in need of employment.³ Tasking the misidentified individual with expending additional time and financial resources to have such a record expunged is unfair and unjust and will be experienced more often and more severely by individuals and families living in poverty. When low-income individuals face an increased likelihood of being arrested and convicted and have that compounded by the time and financial burden necessary to correct the mistakes of others, Ohio denies access to justice to its most vulnerable citizens.

For these reasons, the Ohio Poverty Law Center encourages you to pass House Bill 64.

I greatly appreciate the opportunity to speak with you about this bill. Please do not hesitate to contact me with any questions that you have.

Sincerely,

Patrick M. Higgins
Ohio Legal Assistance Foundation Justice for All Fellow
Ohio Poverty Law Center

³ *Id.* at 12.