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TO: Senate Judiciary Committee
FROM: Gary Daniels, Chief Lobbyist, ACLU of Ohio
DATE: January 22, 2020
RE: House Bill 1 – Proponent Testimony

To Chairman Eklund, Vice Chair Manning, Ranking Member Thomas, and members of the Senate Judiciary Committee, thank you for this opportunity to present proponent testimony on House Bill 1.

House Bill 1 is positive movement in the right direction regarding criminal justice reform in Ohio. With a prison system dangerously overcrowded for decades and a persistent belief we can arrest, convict and incarcerate our way out of Ohio’s drug and other problems, acknowledgment the system needs to change is always welcome.

HB 1 is perhaps best understood as the latest of a series of bills over past sessions of the Ohio General Assembly regarding two specific subjects – intervention in lieu of conviction and record sealing.

Intervention in lieu of conviction is an opportunity for a defendant to benefit from alternatives to prison via a plan developed by and overseen by a court. The goal is keeping people from entering prison.

HB 1 expands intervention in lieu of conviction in several ways: 1) For those with drug and alcohol problems that led to their offense, the court must hold a hearing, 2) a presumption in state law for intervention in lieu of conviction unless a court believes it would be inappropriate, 3) a requirement that judges state on the record why intervention in lieu of conviction was denied, when it is, and 4) places a five-year cap on intervention plans.

With regard to record sealing, HB 1 increases the number of offenses eligible for sealing and also shortens the amount of time under which one may apply for sealing when the issue is multiple charges and convictions arising from the same act.

Record sealing provides an opportunity for those who have, as they say, done the crime and done the time, to try and put that period of their life behind them. As this committee is aware, felony records follow many of your constituents around for the rest of their lives, negatively affecting their employment, housing, education, and more. For this reason, Ohio continues to expand record sealing, including with HB 1.

While we support HB 1, the ACLU of Ohio also cautions this committee regarding its potential impact. The expansion of intervention in lieu of conviction found in the bill ultimately may not be as beneficial as hoped. While HB 1 provides greater opportunity for and presumes intervention in lieu of conviction, judges may still deny it. With HB 1, they only have to be more transparent regarding those denials.

Of course, requiring data collection and reporting in HB 1 so we can determine how it is or is not working after passage would be a significant improvement. As well, in an age where so much information can be found online, record sealing does help but also has its limitations. I mention both of these variables because they will impact HB 1's overall effectiveness.

We are also concerned HB 1 is framed by some proponents as an alternative to Senate Bill 3, the drug-sentencing bill currently under consideration in the Senate. The ACLU of Ohio rejects this thinking. Much-needed reform of our criminal justice system should never be limited to one bill. In truth, Ohio needs much, much more than HB 1 and SB 3.

Still, HB 1 is welcome progress and the ACLU of Ohio greatly appreciates its introduction and the work of sponsors, proponents, and stakeholders to pass it. Accordingly, we encourage this committee's approval of House Bill 1.