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Testimony from:  
Anthony Lamorena, Government Affairs Associate, R Street Institute

In SUPPORT to SB 7, “An act relating to expanding access to expungement and sealing of criminal history records”

March 10, 2021

Senate Judiciary Committee

Chairman Sears Jr. and members of the committee,

My name is Anthony Lamorena, and I am a government affairs associate for the R Street Institute, a nonprofit, nonpartisan public policy research organization. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including criminal justice reform, and that is why we are interested in SB 7.

Here at R Street, we have been longtime supporters of initiatives that aim to expand expungement eligibility for individuals who have made mistakes but deserve another chance. Record-clearing measures, such as SB 7, can promote human dignity, preserve public safety, ensure healthy families, and create limited and effective government.

A 2016 report found that state and FBI repositories included approximately 117,000 criminal records connected to Vermont residents.<sup>1</sup> It is likely that some Vermonters may have more than one criminal history record, but if each of these records were attached to one person, that would mean around 20 percent of the state’s population have a criminal record.<sup>2</sup>

Minor records that are years old can still be a barrier for individuals that are trying to reintegrate into society; criminal records impede an individual’s ability to find employment, to apply for educational programs and to secure stable housing.<sup>3</sup>

Expanding expungement opportunities, as SB 7 does, helps promote human dignity by ensuring more people who have remained crime-free after returning to society receive a second chance and can find dignity in work.<sup>4</sup> As noted by R Street and the Heritage Foundation, “Work often provides a sense of identity and fulfillment, and it can offer a path to redemption for those with criminal records.”<sup>5</sup> However, close to 70 percent of employers run background checks on prospective employees, which often preclude those individuals from gaining employment.<sup>6</sup> One research report funded by the U.S. Department of Justice found that a criminal record can affect the call-back rate or likelihood of a job offer for an applicant



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with a felony on their record by 50 percent, though this number can vary according to the context.<sup>7</sup> The same study showed that Black individuals with a criminal record faced much steeper barriers to employment than similar white counterparts.<sup>8</sup>

Promoting employment through expungement can also help preserve public safety: When individuals are employed at a stable, quality job, the likelihood of them committing a crime vastly diminishes.<sup>9</sup> And research in Michigan by J.J. Prescott and Sonja B. Starr suggest the public safety risks presented by those who do receive an expungement are fairly comparable to those of people in the general population.<sup>10</sup>

In America, almost half of our nation's children have a parent with a criminal record.<sup>11</sup> These records can affect families detrimentally as it could stifle their access to public and private housing and lead to lower earning potential and unemployment. A 2014 report found that the national poverty rate could have dropped by 20 percent if we did not have the current obstacles when it comes to incarceration and criminal records.<sup>12</sup> In addition, the Michigan study by Prescott and Starr also found that those who receive an expungement experience an uptick in their wages.<sup>13</sup>

Legislators in Vermont should continue to support policies that help promote opportunity and second chances for so many state residents. This bill does just that by helping people find work, allowing families more economic mobility and making government smaller yet more efficient—all without jeopardizing public safety.

Thank you.

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<sup>1</sup> Becki R. Goggins and Dennis A. DeBacco, *Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report*, SEARCH, The National Consortium for Justice Information and Statistics, No. 251516, February 2018. <https://www.ojp.gov/pdffiles1/bjs/grants/251516.pdf>.

<sup>2</sup> “Vermont,” Data Commons, last accessed March 9, 2021. <https://datacommons.org/place/geoid/50>.

<sup>3</sup> Amy L. Solomon, “In Search of a Job: Criminal Records as Barriers to Employment,” *National Institute of Justice Journal*, (June 14, 2012). <https://nij.ojp.gov/topics/articles/search-job-criminal-records-barriers-employment>.

<sup>4</sup> Vijay Menon, “Americans Agree With Geoffrey Owens: There is Dignity in Work,” The Heritage Foundation, Sept. 17, 2018. <https://www.heritage.org/welfare/commentary/americans-agree-geoffrey-owens-there-dignity-work>.

<sup>5</sup> Nila Bala, “R Street: Why Conservatives Should Support Clean Slate Initiatives,” Justice for Work, April 2, 2020. <https://www.justiceforwork.org/blog-1/2020/4/2/r-street-why-conservatives-should-support-clean-slate-initiatives>.

<sup>6</sup> *Background Checking—The Use of Criminal Background Checks in Hiring Decisions*, Society for Human Resource Management, July 19, 2012. <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/criminalbackgroundcheck.aspx>.

<sup>7</sup> Devah Pager and Bruce Western, *Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men*, Office of Justice Programs, No. 228584, October 2009. <https://www.ojp.gov/pdffiles1/nij/grants/228584.pdf>.

<sup>8</sup> *Ibid.*

<sup>9</sup> Christy Visher, et al., “Employment after Prison: A Longitudinal Study of Releasees in Three States,” Urban Institute’s Justice Policy Center, October 2008. <https://www.urban.org/sites/default/files/publication/32106/411778-Employment-after-Prison-A-Longitudinal-Study-of-Releasees-in-Three-States.PDF>.

<sup>10</sup> J.J. Prescott and Sonja B. Starr, “Expungement of Criminal Convictions: An Empirical Study,” *Harvard Law Review* 133:8 (June 2020). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3353620](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620).

<sup>11</sup> Rebecca Vallas, et al., *Removing Barriers to Opportunity for Parents With Criminal Records and Their Children*, Center for American Progress, December 2015. <https://cdn.americanprogress.org/wp-content/uploads/2015/12/09060720/CriminalRecords-report2.pdf>.

<sup>12</sup> Rebecca Vallas and Sharon Dietrich, “One Strike and You’re Out,” Center for American Progress, Dec. 2, 2014. <https://www.americanprogress.org/issues/poverty/reports/2014/12/02/102308/one-strike-and-youre-out/>.

<sup>13</sup> J.J. Prescott and Sonja B. Starr, “Expungement of Criminal Convictions,” 2015. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3353620](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620).