



TESTIMONY OF MICHAEL KEBEDE, ESQ., ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION OF MAINE, GLBTQ LEGAL ADVOCATES & DEFENDERS (GLAD), MAINETRANSNET, MAINE PRISONER ADVOCACY COALITION, AND PORTLAND OUTRIGHT

Ought To Pass

LD 2218, An Act to Remove the Age-related Statutory Prerequisite for Sealing Criminal History Record Information

LD 2236, An Act to Expand the List of Crimes Eligible for a Post-judgment Motion to Seal Criminal History Record Information to Include Convictions for Possession and Cultivation of Marijuana

LD 2252, An Act to Establish the Criminal Records Review Commission

LD 2269, An Act to Automatically Seal Criminal History Record Information for Class D and Class E Crimes Relating to Marijuana Possession and Cultivation

Joint Standing Committee on Judiciary

March 15, 2024

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, greetings. On behalf of the American Civil Liberties Union of Maine, GLBTQ Legal Advocates & Defenders (GLAD), Maine Prisoner Advocacy Coalition, MaineTransNet, and Portland Outright, I urge you to support LDs 2218, 2236, 2252, and 2269 because each bill would help free Mainers from the debilitating unintended consequences of criminal records, honoring the constitutional principle of proportionate punishment, and our right to equal access to certain goods and services.

For as long as there have been criminal laws, a criminal record has prevented people from continuing their education, and accessing housing, employment, professional licenses, credit, investments, and healthcare, along with many other features of a stable, dignified life.¹ The Legislature was aware of this problem when it created, and repeatedly sustained, the Criminal Records Review Committee (“the Committee”), a bipartisan group of twenty-nine members that included, among others, advocates, law enforcement officials, and administrators from the State Bureau of Identification, the agency responsible for storing, sealing, and sharing criminal records.² In January of this year, the Committee released its interim report, which contained five recommendations. The bills being heard today aim to implement some of those recommendations.

LD 2218 would enable people to petition courts to seal records of certain crimes, provided that four years have passed since the end of the person’s punishment, the person has not been convicted of another crime in Maine or another state, and the person doesn’t have a pending criminal charge in Maine or elsewhere. Current law allows for this very process, but only for people who were between eighteen and twenty-eight years old during the conduct underlying the crime. This bill would expand a system that works, and allow people to move on after they have paid their debt to society.

LD 2236 would give people who were convicted some cannabis crimes the right, upon petitioning a court, to have their records sealed. This bill would only apply to crimes committed after January 30, 2017, the effective date of Maine’s first adult-use cannabis laws, and to Class D cannabis possession and cultivation crimes. LD 2269 would automatically seal crimes related to

¹ See Alexandra Harwin, *Title VII Challenges to Employment Discrimination Against Minority Men with Criminal Records*, 14 Berkeley J. Afr.-Am. L. & Pol’y 2, 2-3 (2012) (“Criminal convictions of whatever kind and whatever vintage serve as an automatic bar to employment in professions as diverse as barbering, plumbing, bartending, and ambulance driving.” Studies also suggest more than sixty percent of employers refuse to hire individuals with a criminal record.); Valerie Schneider, *The Prison to Homelessness Pipeline: Criminal Records Checks, Race, and Disparate Impact*, 93 Indiana L. J. 421, 421 (2018) (“Study after study has shown that securing housing upon release from prison is critical to reducing the likelihood of recidivism, yet those with criminal records—a population that disproportionately consists of racial minorities—are routinely denied access to housing, even if their offense was minor and was shown to have no bearing on whether the applicant would be likely to be a successful renter.”); Joseph W. Frank, et al., *Discrimination based on criminal record and healthcare utilization among men recently released from prison: a descriptive study*, 2 Health and Justice 1, 2 (2014) (“Discrimination based on one’s criminal record may serve as an additional barrier to engaging in healthcare.”).

² LD 563, Resolve, To Create the Criminal Records Review Committee, 130th Legislature, available at www.mainelegislature.org/legis/bills/display_ps.asp?PID=1456&snum=130&paper=&paperId=1&Id=563; 'Resolve, To Create the Criminal Records Review Committee', Committee Amendment to LD 764, An Act To Limit the Dissemination of Certain Criminal Records, 129th Legislature, available at http://www.mainelegislature.org/legis/bills/display_ps.asp?PID=1456&snum=129&paper=&paperId=1&Id=764.

convictions for cannabis possession and cultivation committed between January 1, 2001 and January 30, 2017. LDs 2236 and 2269 would both better align Maine's criminal laws with voters' evolving views on cannabis.

Finally, LD 2252 would turn the Criminal Records Review Committee into a permanent commission. Having represented the ACLU in the Committee since October of 2019, I can attest that even in its five years of work, the group has not come close to exhaustively studying and deliberating about criminal records sealing. Automatic sealing, sealing of Class A, B, and C crimes, or consequences for entities that illegally share sealed records – all these issues were left for a later day. Almost all of the group's meetings have been consumed with presentations. Although we hope that one day, a Criminal Records Review Commission will be obsolete, the need for a permanent commission on this topic is clear and present. We do recommend amending the bill to enable the appointees in the bill's Section 902(1)(J) through (P), and (S) through (Z) to send a designee to the Commission's meetings, should the appointee be unable to attend. This small amendment will make it easier for every appointing organization to send someone to every Commission meeting.

Each of these three bills would make important progress in giving people with criminal records a chance at becoming equal members of our society. We urge you to vote ought to pass.