

Testimony in Support of 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,” and LD 2269, “An Act to Automatically Seal Criminal History Record Information for Class D and Class E Crimes Relating to Marijuana Possession and Cultivation,”

James Myall

March 19, 2024

Dear Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary. My name is James Myall. I’m an economic policy analyst at the Maine Center for Economic Policy, and I’m writing to testify in support of several bills relating to the sealing of criminal records in Maine. MECEP supports these bills because the presence of a criminal record can unfairly hold back Mainers’ ability to secure employment and housing, and can make it harder for them to achieve overall economic security. In doing so, these criminal records also hold back our overall economy. By making it easier for Mainers to have records for long-ago low-level crimes sealed, these bills will make it easier for all Mainers to thrive.

One in six Mainers – 190,000 people -- report having been arrested and booked for a crime at some point in their lifetime.¹ Most of these are working-age Mainers, and many find it harder to get or maintain work because of their past criminal history. Not all of those individuals were convicted of a crime, but research has shown that even having a record of being arrested can make it harder to get a job² and can lead to decreased future earnings.³

The consequences for those who are convicted, even for low-level crimes, are even more severe. One study found that applicants for entry-level positions who reported a recent 18-month period of incarceration for drug possession were half as likely to be hired as their peers without the same record.⁴

The impacts are particularly important when we know that being able to get and maintain employment is a key means of reducing recidivism. By making it easier for Mainers to get criminal records sealed, these bills will make it easier for them to rebuild their lives after a past mistake.

Improving the sealing process and reducing barriers to employment is also important to the economy at large. Maine has an exceptionally strong labor market right now, and employers are eager to find workers. Mainers with criminal records are often some of the last to be hired, and while the current strong labor market makes it easier for employers to overlook criminal records to hire someone, we should make it easier for the stigma of a record to be removed completely, and to maximize the number of potential workers available for our thousands of unfilled jobs.

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I also want to address the concern by some opponents of these bills that criminal records represent a “record of truth” that should be maintained. This position is hard to maintain when we know that there are biases and deficiencies in our criminal justice system. This Committee heard in 2019 through the Justice Reinvestment study conducted by the Council of State Governments that Black Mainers, in particular, are much more likely to be arrested for drug offences, and face harsher penalties when convicted.⁵

This isn’t due to higher drug use in Maine – when you look at the number of arrests compared to the rates of drug use, Black Mainers who use drugs are three and a half times more likely to be arrested than white Mainers who use drugs.⁶

We also know the overwhelming majority of drug cases in Maine (almost 90%) are resolved by plea deal rather than a jury trial,⁷ and Mainers’ rights to a fair trial are endangered by our lack of comprehensive access to counsel for indigent defendants.⁸ In this context, it’s especially difficult to view criminal records as an infallible record of truth. Expanding the ability of Mainers to have past crimes sealed not only offers them a fresh start after they have served punishment for their crimes, but it helps give them the benefit of the doubt that those initial convictions may represent injustices.

Thank you for your consideration. I urge you to move forward with legislation to make it easier for Mainers to have their criminal records sealed.

As always, I’m happy to answer any questions. I can be reached at jmyall@mecep.org

Notes

¹ US Substance Abuse and Mental Health Services Administration, National Survey on Drug Use and Health, 2018-2019 data.

² Uggen, Christopher, et al., “The Edge Of Stigma: An Experimental Audit Of The Effects Of Low-Level Criminal Records On Employment,” *Criminology* Vol 52, Issue 4. November 2014, pp627-654. Available at http://users.soc.umn.edu/~uggen/Uggen_Vuolo_Lageson_Whitham_Ruhland_Crim_14.pdf

³ Grogger, Jeffrey, “The effect of arrests on the employment and earnings of young men,” *Quarterly Journal of Economics*, Vol 110, 1. Feb 1, 1995. Available at https://canvas.brown.edu/files/51920786/download?download_frd=1&verifier=rWkMIPSO07GGTaMr0yhDXPOiViUozfGrDUnyUFRo

⁴ Pager, Devah and Bruce Western. *Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men*, October 2009. Available at: <https://www.ncjrs.gov/pdffiles1/nij/grants/228584.pdf>

⁵ Ben Shelor et al., “Justice Reinvestment in Maine: Second Presentation to the Maine Commission to Improve the Sentencing, Supervision, Incarceration and Management of Prisoners,” *Council of State Governments* Nov 19, 2019 <https://csgjusticecenter.org/wp-content/uploads/2020/10/JR-in-Maine-second-presentation1.pdf>

⁶ Winnifred Tate et al., “A Better Path For Maine: The Case For Decriminalizing Drugs.” *ACLU of Maine and Maine Center for Economic Policy*. March 21, 2022, <https://www.aclumaine.org/en/betterpathreport> p32

⁷ *Ibid.*, p21

⁸ Samantha Hogan, “ACLU Sues Maine, Says It Provides Ineffective Defense Counsel For People Charged With Crimes.” *Maine Monitor*. March 1, 2022. <https://themainemonitor.org/aclu-sues-maine-says-it-provides-ineffective-defense-counsel-for-people-charged-with-crimes/>