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Testimony in support of LD 1919: An Act to Expand the Types of Convictions Eligible for Sealing Through a Post-Judgement Motion to Seal Criminal History Record Information

Dear Senator Beebe-Center, Representative Hasenfus, and honorable members of the Criminal Justice & Public Safety Committee,

I am testifying in favor of this bill.

I would like to draw the committee's attention to Section 1. 6. E. (4). This part of the drafted bill makes class D convictions eligible for sealing, with the exception of assault convictions, "if the defendant was or could have been charged with a crime under 17-A, chapter 11 or 12 arising out of the same course of conduct".

Chapters 11 and 12 refer to sexual assault and sexual exploitation of a minor. If someone was convicted of a class D crime in these categories, they would already be excluded from sealing according to Section 1. 6. E. (1). In what follows I will seek to think through examples of how Section 1. 6. E. (4) would play out regarding those it would exclude, namely people excluded from sealing who *were* convicted of class D assault and *were not* convicted of sexual assault or sexual exploitation of a minor.

As far as the "was...charged with" element, it seems that 1. 6. E. (4) seeks to exclude people who were charged with sexual assault or sexual exploitation of a minor, but were not found guilty or convicted. What is the logic behind this exclusion. A judge oversees the proceedings of each criminal case in our courts, and they are responsible for making sure that our laws are followed and justice is served to the best of our abilities. If someone was charged with a crime but hasn't been found guilty of it, I don't think it's ethical to treat them as if they *were* found guilty of it. Our legal system is based on the belief that they are still legally innocent.

As far as the "could have been charged with" element, is this something that the people processing applications for sealing can conceivably determine? I'm not a lawyer, but I think the question of whether or not someone *can* be charged with a crime is usually determined by a collaboration between law enforcement and prosecutors. I would hope that if someone could be charged with a crime but hasn't been, that the evidence would be provided to law enforcement and the relevant prosecutor for them to review and proceed as a legitimate new charge.

I understand the desire to be thorough in the measures we include to protecting victims while reforming our criminal-legal system, but I think section 1. 6. E. (4) misses the mark and I hope it is re-worked in the work session. Section 1. 6. E. (4) could be changed to either allow or exclude all class D assaults, but it shouldn't base exclusions off of charges that were never leveled or convictions that were never reached.

I hope you will vote ought to pass on LD 1918. Thank you for your time and consideration.

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