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SPEAKER OF THE HOUSE

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Testimony of Speaker Rachel Talbot Ross in Support of

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

Before the Joint Standing Committee on Judiciary

Senator Carney, Representative Moonen, and esteemed members of the Joint Standing Committee on Judiciary. My name is Rachel Talbot Ross, I represent District 118 on the peninsula of Portland, and I serve as Speaker of the House. I am here to provide testimony in strong support of **LD 2252, An Act to Establish the Criminal Records Review Commission.**

This bill calls for the establishment of the Criminal Records Review Commission, a permanent body with a similar purpose and structure as the interim Criminal Records Review Committee, which has been convened twice. As House Chair of that committee and sponsor of its authorizing legislation in both of its iterations, I believe strongly that we should make this body permanent.

I'll begin by placing this bill in the context of work that has evolved over several years. This recommendation to establish a permanent commission follows multiple attempts to take up this subject matter on a finite timeline. Each time, the committee has been able to move forward concrete recommendations, while also recognizing that a broad landscape of criminal records policy concerns were left unanswered. My commitment to answering these concerns for the benefit of a *just* criminal justice system is why I stand in strong support of this legislation today.

I first sponsored legislation to authorize the Criminal Records Review Committee in the 129th Legislature, and subsequently in the 130th and the 131st; it was convened as a stakeholder group in the 129th and then as a legislative study in the 130th Legislature and again in the 131st. The committee met five times during the 130th session and three times so far in the 131st, with five more meetings to follow this year. In championing its passage and funding, I intended to place resources behind an incredibly important question: whether, when, and how we should limit access to the criminal records of those who have committed certain crimes in this state.

This question is timely for two reasons. First, the landscape of criminal convictions in Maine has changed dramatically in recent years – I would highlight the referendum that legalized recreational marijuana use in 2017 as a notable turning point. In a very short time, we saw an offense that had been responsible for landing thousands of Mainers in jail each year become broadly legal, precipitously decreasing the numbers of Mainers arrested for its possession¹; meanwhile, those criminal records remained for those who had been convicted of such crimes, carrying all the consequences of a permanent criminal record. The second reason transcends this moment in particular, and it is my belief that persons who have been convicted of crimes and served their sentences should be able to return to their communities and lead successful, fulfilling lives. In Maine, criminal records are generally public, so there is little to prevent stigma or unjust weaponization on the part of landlords, employers, and others against those who have been involved in the justice system.

The path that we take to get there, however, is not a linear one. Important considerations must be made to public safety, the needs of victims, and the public's right to access records, considerations which informed the diverse makeup and the broad discussion of the CRRC. As the committee learned, the multiplicity of agents and parties involved in the expungement, sealing, or vacating of records, and the lack of legal clarity around such processes, complicates the work and only heightens its importance. I'll provide an example. The committee began to consider this past fall whether the Legislature could establish "clean slate" laws,

¹ https://mainedrugdata.org/wp-content/uploads/2022/02/2021SEOWStateProfileFINAL_REVISED_1.3.2022.pdf, pg. 52

which involve either automatic sealing of records or expungement, which involves the destruction of records; this discussion followed the discovery that a law passed based on the first CRRC's recommendations, which allows those with criminal records who met very limited conditions to petition the court for the sealing of their records, has been used very few times, and is likely burdensome to petitioners. Maine does not currently have a process for expunging records, and so the Committee must consider possible mechanisms for taking such action, how to determine eligibility for records expungement, and the implications of the Separation of Powers doctrine that bestows on the Governor the power to commute sentences and issue pardons. These discussions will take place in the five meetings allotted to the Committee.

It is clear that the complexity involved in these issues is enormous, and for those justice-involved individuals who have a mark on their record, the stakes are high. The Committee has done excellent work on these issues, which have resulted in the passage of legislation and advancement towards forthcoming legislative work. That forward momentum should be given the space and institutional support to continue. It's for these reasons that one of those most important recommendations to emerge from the Committee was the establishment of a permanent CRRC, and why I argue that this body should be made permanent.

I'll take a moment to thank Senator Bailey, who serves as co-chair of this Committee, and Representative Sheehan, who has been an invaluable member, as well as committee staff, without whom the work would not be possible. Finally, I'll thank this Committee for your hard work and attention to these critically important issues. I urge you to support this bill, and I am happy to answer any questions you may have.