



Working to Reform Marijuana Laws

Colorado (2022): SB 099, Testimony supporting the proposed procedure for sealing of criminal records for nonviolent offenses and minimizing barriers to employment for job seekers

My name is Jax James and I serve as the State Policy Manager for the National Organization for the Reform of Marijuana Laws (NORML). I would like to thank the Senate Judiciary Committee for considering Senate Bill 099. NORML is supportive of legislative efforts to seal criminal records to reduce barriers to employment and make it an unfair housing practice to refuse to show, sell, transfer, rent, or lease housing based on the contents of a sealed criminal record.

Currently, Colorado has a process that allows for the automatic sealing of criminal justice records for certain drug offenses. The bill would extend the automatic sealing of records to all of the offenses, including civil infractions, ultimately streamlining the automatic record sealing process and reducing housing and employment discrimination.

Senate Bill 099 seeks to make it an unfair employment practice to discharge, or refuse, to promote a person based solely on the contents of a sealed criminal record and makes it an unfair housing practice to refuse to show, sell, transfer, rent, or lease housing based on the contents of a sealed criminal record.

Individuals with marijuana-related drug offenses should not be denied access to housing simply because they have a criminal record. Colorado state law allows for the possession and use of marijuana by individuals who are 21 and older and they should not face housing or employment discrimination based solely on the contents of a sealed criminal record.

Over the past decades, well over 20 million Americans have been arrested for violating marijuana laws. As a result, whole communities have lost generations of citizens to cyclical poverty and incarceration due to the collateral consequences of having a cannabis-related conviction on their record. These consequences include the loss of access to higher education, the inability to qualify for government-subsidized housing, employment discrimination, housing discrimination, the loss of child custody, homelessness, etc. In large part due to the modern War on Drugs, the United States' prison population has skyrocketed by over 500 percent over the last 40 years, with nearly 2.3 million people incarcerated in the United States at the beginning of 2019.

Additionally, cannabis possession is the second most common reason for a drug-related deportation infraction, and the US Citizen and Immigration Services recently released a policy alert, stating that immigrants seeking citizenship who use cannabis or work with a state-legal and regulated cannabis company, even in states where it is legal, may be denied citizenship due to their "lack of good moral character."





Working to Reform Marijuana Laws

In addition to the human cost of prohibition, there continues to be a massive financial cost to the federal government as well. On average, federal prohibition enforcement costs US taxpayers nearly \$4 billion annually. This does not include the over \$6 billion spent in states that continue to criminalize cannabis. In contrast, a recent study published earlier this year concluded that legal marijuana nationwide would add over \$132 billion in federal tax revenue and add over one million jobs to the economy in the next decade.

The prohibition of marijuana has crippled the civil rights and liberties of communities across the country, leading to an exorbitant increase in incarceration rates, particularly among communities of color. According to an [ACLU analysis](#), "marijuana arrests now account for over half of all drug arrests in the United States. Of the 8.2 million marijuana arrests between 2001 and 2010, 88% were for simply having marijuana. Nationwide, the arrest data revealed one consistent trend: significant racial bias. Despite roughly equal usage rates, Blacks are 3.73 times more likely than whites to be arrested for marijuana."

With the large number of individuals being disproportionately arrested for marijuana offenses, it is clear that as a state with both legalized and medical marijuana, Colorado needs to pass Senate Bill 099 and extend the automatic sealing of records to all of the offenses, including civil infractions. This would make it an unfair employment practice to discharge, or refuse, to promote a person based solely on the contents of a sealed criminal record and would make it an unfair housing practice to refuse to show, sell, transfer, rent, or lease housing based on the contents of a sealed criminal record. It is in Colorado's best interest to help end cyclical poverty due to the collateral consequences of having a cannabis-related conviction on their record.





Erin George
National Campaigns Manager
Clean Slate Initiative | cleanslateinitiative.org

RE: Testimony In Support of Senate Bill 22-099 [Colorado]

February 24, 2022

Chairman Lee and members of the Senate Judiciary Committee,

My name is Erin George, National Campaigns Manager at the [Clean Slate Initiative](https://cleanslateinitiative.org), a bipartisan coalition dedicated to advancing policies that automatically clear arrest and conviction records in states across the country. I am pleased to submit this testimony in support of [SB22-099](https://leg.colorado.gov/bills/22/099), the Colorado Clean Slate Act, and urge all members of the Senate Judiciary Committee to vote 'yes' on this important measure. SB22-099 is a cost-effective and responsible way to promote public safety, bolster economic development, and foster family values.

Automatic record clearance reforms like SB22-099 offer a meaningful opportunity for people who have made a mistake in the past but have long since completed their sentences and remained crime-free. In Colorado, approximately 2 million people experience the far-reaching ramifications of an old arrest or conviction record.¹ When it comes to securing jobs, people with records are half as likely as other job seekers to receive an employer callback. The challenges associated with "employability" trickle to every part of a person's life, and can place specific strain on families. In fact, nearly half of all U.S. children now have at least one parent with a record. The barriers associated with parents' records have negative consequences for children's cognitive development, school performance, and employment outcomes in adulthood.

Under Colorado's existing law, research shows that less than 5 percent of eligible people successfully clear their arrest and/or conviction records through the current petition based process.² SB22-099 will help people capture the second chance they've earned by streamlining a costly, burdensome and time-intensive process that prevents the vast majority of eligible people from ever obtaining needed relief. Automated systems use technology to initiate and complete the process of record clearance with minimal human intervention. This process takes place at scale, meaning that government is able to clear records much more efficiently, at lower costs over time, and with a much greater impact. It's a common sense reform that actualizes the intent of Colorado's existing record sealing law – to ensure that those eligible are able to have their records cleared.

And research shows that clearing records *promotes* public safety by increasing access to jobs, housing, and educational opportunities that support community re-integration and stability. Empirical data from a recent study demonstrates that five years after benefitting from record clearance, individuals were *less* likely than members of the general public to commit a crime.³

¹ <https://paperprisons.org/states/CO.html>

² <https://paperprisons.org/states/CO.html>

³ J.J. Prescott and Sonja B. Starr, *Expungement of Criminal Convictions: an Empirical Study*, Harvard Law Review (forthcoming), at 35-36 (noting recidivism rates of Michigan set-aside recipients are "lower than those found in most studies of criminal recidivism" and "suggest that set-aside recipients pose a lower crime risk than the general population of Michigan as a whole."); see also Alfred Blumstein and Kiminori Nakamura, *Redemption in an Era of*

Clean Slate policies across the country are supported by advocates, impacted people, faith communities, business leaders and people of all political affiliations – because we can all agree on the values of redemption and second chances. 70 percent of Americans support Clean Slate policies—including 66 percent of Republicans and 75 percent of Democrats.

In June 2018, Pennsylvania became the first state in the nation to enact Clean Slate legislation. Since then, Clean Slate reforms have passed in Utah, Michigan, Connecticut and Delaware and campaigns to advance Clean Slate policies are active in states across the country, including New York, Texas, Oregon, Missouri, Oklahoma, West Virginia, and Massachusetts. By passing SB22-099, Colorado has the opportunity to join the growing national movement to create equity, efficiency and meaningful second chances.

The Clean Slate Initiative strongly encourages all members of the Senate Judiciary Committee, on both sides of the aisle, to vote “yes” on this important measure.

Widespread Criminal Background Checks, National Institute of Justice Journal, Issue No. 263, 11 (September 2009) (noting most people desist from crime after 3 years of remaining crime free).



February 24, 2022

Chairman Lee and Members of the Senate Judiciary Committee,

My name is Lauren Krisai, and I am a Senior State Policy Manager at the Justice Action Network, a bipartisan organization dedicated to advancing evidence-based and public safety focused criminal justice reforms at the state and federal levels. I am writing in support of **SB22-99, the Colorado Clean Slate Act**, and urge you to vote in favor of this important legislation today. This bill provides a meaningful pathway to a second chance for those who have worked hard to put their criminal histories behind them.

Right now, minor criminal records in Colorado can stand in the way of jobs, housing, education, and all the other necessary components of a productive life. Even when someone has remained crime-free for years and has taken all the steps necessary to turn their life around, a long-ago minor mistake can levy a stigma on someone that can unnecessarily keep him or her out of the workforce.

Fortunately, a bipartisan group of policymakers and stakeholders have crafted a solution for Colorado. Under the proposed Colorado Clean Slate Act, records of individuals who committed certain civil infractions may be sealed after four years, certain misdemeanors may be sealed after seven years, and low-level, nonviolent felonies may be sealed after 10 years—but only if the person does not receive any new convictions in those timeframes.

This bill is an acknowledgement of those individuals' hard work and commitment to changing their lives and earning a second chance. It does not absolve them of responsibility for the mistakes they've made, but it does recognize that one mistake should not define us for the rest of our lives.

This bill automates the expungement process for those eligible cases, while maintaining the protection of public safety. This means that eligible records will be sealed without someone needing to hire a lawyer and navigate the byzantine process of obtaining a judicial order. This also means Colorado will save significant court resources and time, which translates to reduced taxpayer costs.

This is not untried or untested policy. Pennsylvania was the first state to establish "Clean Slate" legislation for misdemeanor offenses in 2018 and is currently considering legislation that would expand it to low-level felonies. Since the passage of Pennsylvania's law, more than 40.5 million cases and 61 million offenses have been sealed, which has had an incredible impact on the lives of over 1.2 million Pennsylvanians. Utah, Delaware, Michigan, and Connecticut have also passed "Clean Slate" laws since then, and even more states are considering similar bills this year.

We must grow Colorado's workforce rather than its prison population, and we must strengthen families and communities rather than stand in their way of success. This is why we support **SB 22-99**, and why we ask that you all vote in support of it today.

Sincerely,
Lauren Krisai, Senior State Policy Manager
Justice Action Network

Report on Evaluation of Colorado Criminal Record Accuracy Preliminary Summary

John Seward
February 2, 2022

Background

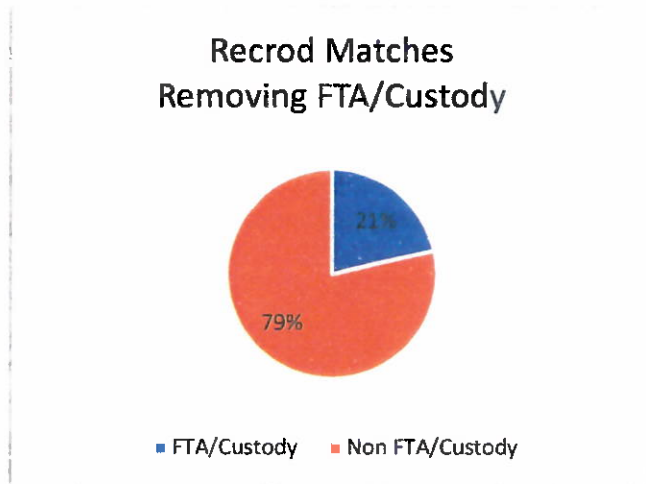
In partnership with Expunge Colorado, the Abby Moffitt Law Firm, and Clean Slate Colorado, the University of Denver (DU) analyzed a sample of criminal records to evaluate the accuracy of the records among various state databases. The evaluation did not look at the content of the record (e.g., if information reported was accurate) instead, it sought to determine if the records themselves were consistent across different agencies. We looked at records from the Colorado Bureau of Investigation (CBI) and Colorado Judicial Department. Using both agencies' online record repositories, we conducted name-based background checks producing criminal history reports for individuals. This process created two reports, the CBI reports consisting of the name-based background investigation; and the Judicial report consisting of criminally numbered cases with the individual listed as defendant. The two reports were then compared line by line to identify matching information, namely the docket numbers. The records included in this evaluation are publicly available. For purposes of this report "record" means each single case/incident reported in the CBI or Judicial database.

The individual records included in the evaluation came from a record sealing clinic held in October 2021 as part of National Expungement Week. Participants attended the clinic to seek assistance sealing their criminal records. An attorney reviewed the record of each participant to screen for record sealing eligibility. All records requested from the state database were printed and organized by participant and then assigned a case number. The case numbers were used in this evaluation in lieu of personal information. This evaluation reviewed a total of 87 records collected at the record sealing clinic.

Limitations

Each record was produced using a name-based search, full demographic identification was not completed, leaving room for potential duplication. DU received all records on paper and data were manually coded, leaving room for human error. This evaluation is preliminary and additional analysis of data is underway. Despite the preliminary nature of the data, we do report it with high confidence. Our intent in distributing preliminary data is to aid with ongoing conversations in the legislative session now underway. The sample size is small but representative.

Fail to Appear (FTA) is recorded as a new arrest and assigned a separate case number in the CBI report. Custody events are recorded as separate cases in the CBI report as well, custody events are when someone is transferred from one correctional facility to another. In these cases, there is an existing case and a duplicate listing is created. Sometimes the original docket number is attached but this varies across records. Reporting FTA/Custody events as separate incidents creates duplicate records that cannot always be linked to the originating record because docket numbers are not included. The Judicial database, on the other hand, reports FTA/Custody events in the same case not as a separate case, reducing duplication.

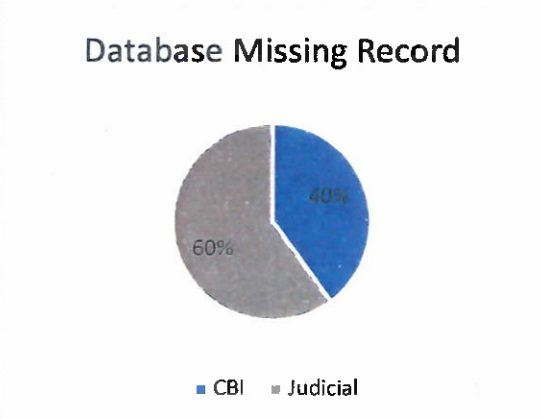


Once the FTA/Custody events are removed from the sample, the successful matching increases.

Average Arrests

9.7

Not all arrests result in conviction and not all arrests result in charges. CBI reports all arrests, Judicial records reflect only those arrests that result in a charge.



Records were more likely to be missing from the Judicial database than the CBI database.

Let My People Vote Testimony | [Sealing Criminal Records \(SB22-099\)](#)

Contact: Victoria Dadet (victoria@neweracolorado.org)

My name is Victoria Dadet, and I'm a Let My People Vote Coordinator for Soul 2 Soul Sisters where we organize for Black Women's healing, joy, and liberation here in Denver. I'm submitting this testimony on behalf of our Let My People Vote program to urge you to support Senate Bill 99 and support Black communities that have been impacted by the criminal legal system.

At Let My People Vote, we hold reproductive justice at the core of our work. Reproductive justice teaches us that every community deserves to be able to live and raise families in a safe and healthy environment. However, Black families are at a higher risk of being traumatized by the criminal legal system due to racist policies targeted at low-income, Black, Brown, and Indigenous communities that lead to our people being over-criminalized and over-surveilled. These policies disproportionately send Black people into the criminal legal system and create unnecessary barriers that make it harder for individuals to participate in society after they are released. Having a criminal record can make it impossible for someone to get housing, get a job, and do other things that would support their ability to live independently. **The economic obstacles created for formerly incarcerated people combined with the consistent targeted aggression from police towards Black communities are a direct result of this country's legacy of slavery, slave catchers, and constant attempts to prevent Black people from building safe communities for us to exercise our autonomy and agency.**

This is why we need SB99 to support Black communities in our state. Being able to seal a criminal record can make it possible for a household to gain long-term employment, education, affordable housing, and more. Colorado has made great strides by allowing for the automatic sealing of certain records, and we need this legislation to expand the same automatic process to the remaining eligible records, including all non-convictions, many misdemeanors, and lower-level felonies. SB99 would make it easier for many Black families who have been impacted by the criminal legal system to access the things they need in order to control their futures. We urge you to vote yes on SB99. Thank you for your time.



1212 New York Ave. NW
Suite 900
Washington, D.C. 20005
202-525-5717

Free Markets. Real Solutions.
www.rstreet.org

Testimony from:

Christi M. Smith, Fellow, Criminal Justice and Civil Liberties, R Street Institute

In SUPPORT of SB22-099 “AN ACT to expand the procedure for the sealing of criminal records for nonviolent offenses, and in connection therewith, protects the misuse of information by third-party vendors, addressing workforce shortages and minimizing barriers to employment for job seekers.”

February 24, 2022

Senate Judiciary Committee

Chairman and members of the committee,

Thank you for considering my testimony. My name is Christi M. Smith; I conduct research in the area of probation, parole/reentry and community corrections 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 SB22-099 is of special interest to us.

Colorado currently has a population of approximately 5.8 million citizens. An estimated two million residents have a criminal record; 1.7 million have a criminal conviction.¹ According to a 2020 report, 353,528 crimes were reported that year, 92.5 percent of which were non-violent offenses.² An overwhelming majority of the individuals charged and convicted of minor offenses face a lifetime of social penalties that subject them to a perpetual state of punishment. Their criminal history becomes the ball and chain from which they are never totally free, despite serving their sentence and fulfilling all of their legal obligations.

The consequence of having a criminal record, especially in a digital world, forever compromises one’s ability to secure the most basic needs that are necessary for the stability of themselves and their dependents. Individuals convicted of past crimes, who have paid their debt to society are often excluded from certain educational, vocational and housing opportunities as a result of their criminal record, regardless of the severity of the offense or the amount of time passed since it occurred. The availability of public records and the ease of access makes it nearly impossible for people to establish a non-criminal identity wherein they are no longer judged by their worst decision(s). Absent the ability to achieve traditional societal goals by conventional means, formerly convicted individuals may default to illegal means to support themselves and their loved ones, as evidenced by the low rates of recidivism among people who have received record expungements.³



1212 New York Ave. NW
Suite 900
Washington, D.C. 20005
202-525-5717

Free Markets. Real Solutions.
www.rstreet.org

215-589-8766
cmsmith@rstreet.org

¹ Colleen Chien et al., “The Colorado Second Chance Sealing Gap,” The Paper Prisons Initiative, last accessed Feb. 22, 2022.

<https://paperprisons.org/states/pdfs/reports/The%20Colorado%20Second%20Chance%20Sealing%20Gap.pdf>.

² Colorado Bureau of Investigation, “2020 Statewide Crime Statistics Available,” Department of Public Safety, March 9, 2021. <https://cbi.colorado.gov/news-article/2020-statewide-crime-statistics-available>.

³ J.J. Prescott and Sonja B. Starr, “The Power of a Clean Slate,” Crime & Public Safety, Summer 2020.

<https://www.cato.org/sites/cato.org/files/2020-06/regulation-v43n2-3.pdf>.

⁴ Rebecca Vallas and Sharon Dietrich, “One Strike and You’re Out,” Center for American Progress, Dec. 2, 2014.

<https://www.americanprogress.org/article/one-strike-and-youre-out>.

⁵ Cherrie Bucknor and Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies,” Center for Economic and Policy Research, June 2016.

<https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>

⁶ George Brauchler et al., “The Colorado Crime Wave: An Economic Analysis of Crime and the Need for Data Driven Solutions,” Common Sense Institute, December 2021. https://commonsenseinstitute.org/wp-content/uploads/2021/12/CSI_CRIME_FULL-REPORT_DEC2021_FINAL49.pdf.

⁷ “Clean Slate Colorado Fact Sheet,” Clean Slate Colorado, last accessed Feb. 22, 2022.

https://drive.google.com/file/d/1UhjyDlkYlyRnlpF7xttTio_QniGBzFzV/view.

⁸ Ibid.

⁹ Ibid.

¹⁰ Kim English et al., “2021 Annual Report,” Colorado Commission on Criminal & Juvenile Justice, last accessed Feb 22, 2022. https://cdpsdocs.state.co.us/ors/docs/reports/2021_CCJAnnRpt.pdf.

Megan Ives - Advocacy Manager, Interfaith
Testimony: SB22-099 Criminal Record Sealing
Senate Judiciary Committee - Feb 24, 2022

Good afternoon Mr. Chair and Members of the Committee,

My name is Megan Ives, and I am the Advocacy Manager at the Interfaith Alliance of Colorado. In this role I have helped to coordinate the Clean Slate coalition. Interfaith brings people together across diverse religions and backgrounds to work towards equal rights, inclusion, and opportunity for Coloradans. I am here today because SB 99 reflects these shared values.

In October of last year, Interfaith partnered with Expunge Colorado and the Second Chance Center to host a free record sealing clinic open to the public. Over 85 attendees accessed pro bono legal services that day, and attendees shared details about the massive benefits that getting their old records sealed would hold for them and their families. Despite understanding this issue from a policy perspective, I was shocked and moved to hear the dozens of stories people shared about the extent to which their records, some more than 20 years past, were inhibiting their ability to stabilize their lives.

Among the attendees, we saw cases from 14 Colorado counties, including Denver and El Paso. 98% of those in attendance were between the ages of 20 and 60, what is considered working age. And 80% of respondents said that having a criminal record prevented employment for them.

Beyond the statistics, we heard the human impact of these past records. People shared their stories, discussed the low-paying jobs they were forced to work that limited their ability to support their families - from facing eviction to not being able to fund their children's extracurricular activities.

Sealing criminal records of hardworking Coloradans that have remained crime-free for years would have a positive effect on the Colorado economy by reducing barriers to employment. A recent report on The Colorado Second Chance Sealing Gap found that the Estimated aggregate annual earnings loss associated with people with clearable convictions: \$1.2B in Colorado alone. With more people having access to employment, this would expand our workforce and increase revenue.

We know that access to employment and housing does not just benefit each person that is able to seal their record. At the clinic, 55% of attendees live with and provide for their spouse, children, or dependents. In response to the question "how will getting your record sealed change your life?" People replied: "it will provide for my well being + my family's. so I will be able to contribute to society." and "I will be able to go to school and provide for my son".

The impact of this legislation goes far beyond the stability of those that have eligible criminal records, it would impact the networks of family and community connected to these individuals as well.

To summarize, this legislation not only benefits the Colorado economy at large, but it also aligns with our values. Many faith communities believe in the power of redemption and in acknowledging the human potential to find success after hardship. We also believe redemption is a necessary concept to create more just and healthy communities.

This bill represents a commitment to provide opportunities for all Coloradans to live with dignity and a fair chance at securing health and prosperity. I urge you to center these values and strengthen Colorado's workforce by voting yes on SB 99. Thank you for your time.

Class 2 petty offense convictions – eligibility – penalties. CLASS 2 PETTY OFFENSE CONVICTIONS SHALL BE SUBJECT TO A WAITING PERIOD OF SIX MONTHS.

Class 1 petty offense convictions – eligibility – penalties. CLASS 1 PETTY OFFENSE CONVICTIONS SHALL BE SUBJECT TO A WAITING PERIOD OF SIX MONTHS..

Drug petty offense convictions – eligibility – penalties. DRUG PETTY OFFENSE CONVICTIONS SHALL BE SUBJECT TO A WAITING PERIOD OF SIX MONTHS.

Class 2 misdemeanor traffic offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2), (3), AND (4) OF THIS SECTION, ALL OTHER CLASS 2 MISDEMEANOR TRAFFIC OFFENSE CONVICTIONS SHALL BE SUBJECT TO A WAITING PERIOD OF EIGHTEEN MONTHS.

(2) THE FOLLOWING CLASS 2 MISDEMEANOR TRAFFIC OFFENSE CONVICTIONS SHALL BE SUBJECT TO A WAITING PERIOD OF THREE YEARS.

(a) SPEED EXHIBITIONS AS DESCRIBED IN SECTION 42-4-1105 (2).

(b) RECKLESS DRIVING AS DESCRIBED IN SECTION 42-4-1401.

(3) THE FOLLOWING CLASS 2 TRAFFIC MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF FIVE YEARS.

(a) ELUDING OR ATTEMPTING TO ELUDE A POLICE OFFICER AS DESCRIBED IN SECTION 42-4-1413.

(b) DRIVING UNDER THE INFLUENCE – DRIVING WHILE ABILITY IMPAIRED – DRIVING WITH EXCESSIVE ALCOHOL CONTENT AS DESCRIBED IN SECTION 42-4-1301.

Class 1 misdemeanor traffic offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2), (3) AND (4) OF THIS SECTION, ALL OTHER CLASS 1 MISDEMEANOR TRAFFIC OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF THREE YEARS.

(2) THE FOLLOWING CLASS 1 TRAFFIC MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF TWO YEARS.

(a) COMPULSORY INSURANCE AS DESCRIBED IN SECTION 42-4-1409 (4)(a).

(3) THE FOLLOWING CLASS 1 MISDEMEANOR TRAFFIC OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING

PERIOD OF SEVEN YEARS.

(a) MANDATORY AND VOLUNTARY RESTRICTED LICENSES FOLLOWING ALCOHOL CONVICTIONS AS DESCRIBED IN SECTION 42-2-132.5 (10).

(4) THE FOLLOWING CLASS 1 MISDEMEANOR TRAFFIC OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

(a) CARELESS DRIVING RESULTING IN UNLAWFUL TERMINATION OF PREGNANCY AS DESCRIBED IN SECTION 18-3.5-109.

(b) CARELESS DRIVING AS DESCRIBED IN 42-4-1402 (2)(c).

(c) OPERATION OF A VEHICLE APPROACHED BY EMERGENCY VEHICLE -- OPERATION OF VEHICLE APPROACHING STATIONARY EMERGENCY VEHICLE, STATIONARY TOWING CARRIER VEHICLE, OR STATIONARY PUBLIC UTILITY SERVICE VEHICLE AS DESCRIBED IN SECTION 42-4-705 (3)(b)(III).

Level 2 drug misdemeanor offense convictions – eligibility – penalties. LEVEL 2 DRUG MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF ONE YEAR.

Level 1 drug misdemeanor offense convictions – eligibility – penalties. LEVEL 1 DRUG MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF EIGHTEEN MONTHS..

Level 4 drug felony offense convictions – eligibility – penalties. LEVEL 4 DRUG FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF TWO YEARS.

Level 3 drug felony offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2), OF THIS SECTION, ALL OTHER LEVEL 3 DRUG FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF THREE YEARS.

(2) THE FOLLOWING LEVEL 3 DRUG FELONY OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

(a) CONTROLLED SUBSTANCES – INDUCING CONSUMPTION BY FRAUDULENT MEANS AS DESCRIBED IN SECTION 18-18-416.

Level 2 drug felony offense convictions – eligibility. LEVEL 2 DRUG FELONY OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

Level 1 drug felony offense convictions – eligibility. LEVEL 1 DRUG FELONY OFFENSE

CONVICTIONS ARE INELIGIBLE FOR SEALING.

Class 3 misdemeanor offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, ALL OTHER CLASS 3 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF EIGHTEEN MONTHS.

(2) THE FOLLOWING CLASS 3 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF TWO YEARS.

(a) MENACING AS DESCRIBED IN SECTION 18-3-206 (1).

(b) RECKLESS ENDANGERMENT AS DESCRIBED IN SECTION 18-3-208.

(c) FAILURE OR REFUSAL TO LEAVE PREMISES OR PROPERTY UPON REQUEST OF A PEACE OFFICER AS DESCRIBED IN SECTION 18-9-119 (2).

Class 2 misdemeanor offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, ALL OTHER CLASS 2 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF EIGHTEEN MONTHS.

(2) THE FOLLOWING CLASS 2 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF THREE YEARS.

(a) THEFT OF TRADE SECRETS AS DESCRIBED IN SECTION 18-4-408.

(b) VIOLATION OF A PROTECTION ORDER AS DESCRIBED IN SECTION 18-6-803.5 (2)(a).

(c) KEEPING A PLACE OF PROSTITUTION AS DESCRIBED IN SECTION 18-7-204.

(d) VIOLATING ANY OF THE PROVISIONS OF PART 5 OF ARTICLE 7 OF TITLE 18 REGARDING SEXUALLY EXPLICIT MATERIALS THAT ARE HARMFUL TO CHILDREN.

(e) RESISTING ARREST AS DESCRIBED IN SECTION 18-8-103.

(f) OBSTRUCTING A PEACE OFFICER, FIREFIGHTER, EMERGENCY SERVICE PROVIDER, RESCUE SPECIALIST, OR VOLUNTEER AS DESCRIBED IN SECTION 18-8-104.

(g) UNLAWFULLY CARRYING A CONCEALED WEAPON – UNLAWFUL POSSESSION OF WEAPONS AS DESCRIBED IN SECTION 18-12-105.

(h) PROHIBITED USE OF WEAPONS AS DESCRIBED IN SECTION 18-12-106.

(i) POSSESSION OF HANDGUNS BY JUVENILES AS DESCRIBED IN SECTION 18-12-108.5.

(3) THE FOLLOWING CLASS 2 MISDEMEANOR OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

(a) CRIMINAL INVASION OF PRIVACY AS DESCRIBED IN SECTION 18-7-801.

(b) FAILURE OR REFUSAL TO LEAVE PREMISES OR PROPERTY UPON REQUEST OF A PEACE OFFICER AS DESCRIBED IN SECTION 18-9-119 (3)

Class 1 misdemeanor offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, ALL OTHER CLASS 1 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF TWO YEARS.

(2) THE FOLLOWING CLASS 1 MISDEMEANOR OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF SEVEN YEARS.

(a) SECOND DEGREE FORGERY AS DESCRIBED IN SECTION 18-5-104.

(b) CRIMINAL SIMULATION AS DESCRIBED IN SECTION 18-5-110.

(c) VIOLATION OF A PROTECTION ORDER AS DESCRIBED IN SECTION 18-6-803.5 (2)(a).

(3) THE FOLLOWING CLASS 1 MISDEMEANOR OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

(a) ASSAULT IN THE THIRD DEGREE AS DESCRIBED IN SECTIONS 18-3-204 (b) AND (c).

(b) CRIMES AGAINST AT-RISK PERSONS AS DESCRIBED IN SECTION 18-6.5-103 (6).

(c) SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (3).

(d) UNLAWFUL SEXUAL CONTACT AS DESCRIBED IN SECTION 18-3-404 (2)(a).

(e) SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST AS DESCRIBED IN SECTION 18-3-405.5 (2).

(f) INVASION OF PRIVACY FOR SEXUAL GRATIFICATION AS DESCRIBED IN SECTION 18-3-405.6 (2)(a).

(g) FAILURE TO REGISTER AS A SEX OFFENDER AS DESCRIBED IN SECTION 18-3-412.5 (3).

(h) PERSONAL INFORMATION ON THE INTERNET – LAW ENFORCEMENT OFFICIAL AS DESCRIBED IN SECTION 18-9-313 (2).

(i) POSTING A PRIVATE IMAGE FOR HARASSMENT AS DESCRIBED IN SECTION 18-7-107 (1).

(j) POSTING A PRIVATE IMAGE FOR PECUNIARY GAIN AS DESCRIBED IN SECTION 18-7-108 (1).

Class 6 felony offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, ALL OTHER CLASS 6 FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF THREE YEARS.

(2) THE FOLLOWING CLASS 6 FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF SEVEN YEARS.

(a) INCITING DESTRUCTION OF LIFE OR PROPERTY AS DESCRIBED IN SECTION 18-11-202.

(b) FIRING WOODS OR PRAIRIE AS DESCRIBED IN SECTION 18-13-109 (2)(a).

(3) THE FOLLOWING CLASS 6 FELONY OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

- (a) INVASION OF PRIVACY FOR SEXUAL GRATIFICATION AS DESCRIBED IN SECTION 18-3-405.6 (2)(b).
- (b) FAILURE TO REGISTER AS A SEX OFFENDER AS DESCRIBED IN SECTION 18-3-412.5 (2).
- (c) UNLAWFUL TERMINATION OF PREGNANCY IN THE FOURTH DEGREE AS DESCRIBED IN SECTION 18-3.5-106 (2)(a)
- (d) CRIMES AGAINST AT-RISK PERSONS AS DESCRIBED IN SECTIONS 18-6.5-103 (2)(c), (3)(c), (7)(c), AND (7)(f).
- (e) INDECENT EXPOSURE AS DESCRIBED IN SECTION 18-7-302 (4).
- (f) FALSE REPORT OF EXPLOSIVES, WEAPONS, OR HARMFUL SUBSTANCES AS DESCRIBED IN SECTION 18-8-110.
- (g) IMPERSONATING A PEACE OFFICER AS DESCRIBED IN SECTION 18-8-112.
- (h) CRUELTY TO ANIMALS AS DESCRIBED IN SECTIONS 18-9-202 (2)(b)(i) AND (2)(c).
- (i) POSSESSION OF WEAPONS BY PREVIOUS OFFENDERS AS DESCRIBED IN SECTIONS "18-12-108 (2)(a) AND (4)(a).

Class 5 felony offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTIONS (2), (3) OF THIS SECTION, ALL OTHER CLASS 5 FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF FIVE YEARS.

(2) THE FOLLOWING CLASS 5 FELONY OFFENSE CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF SEVEN YEARS.

- (a) VEHICULAR ASSAULT AS DESCRIBED IN SECTIONS 18-3-205 (1)(a) AND (1)(b).
- (b) THEFT OF TRADE SECRETS AS DESCRIBED IN SECTION 18-4-408 (3).
- (c) AGGRAVATED MOTOR VEHICLE THEFT AS DESCRIBED IN SECTIONS 18-4-409 (3)(a) AND (4)(a).
- (d) CRIMES AGAINST AT-RISK PERSONS AS DESCRIBED IN SECTIONS 18-6.5-103 (2)(b), (3)(b) AND (5).
- (e) INCITING RIOT AS DESCRIBED IN SECTION 18-9-102.
- (f) VEHICULAR ELUDING AS DESCRIBED IN SECTION 18-9-116.5 (2)(a).
- (g) POSSESSION OF A DANGEROUS OR ILLEGAL WEAPON AS DESCRIBED IN SECTION 18-12-102.
- (h) ILLEGAL SALE OF WILDLIFE AS DESCRIBED IN SECTION 33-6-113 (2)(a).

- (3) THE FOLLOWING, CLASS 5 FELONY OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.
- (a) CRIMINALLY NEGLIGENT HOMICIDE AS DESCRIBED IN SECTION 18-3-105.
 - (b) MENACING AS DESCRIBED IN SECTIONS 18-3-206 (1)(a) AND (1)(b).
 - (c) FALSE IMPRISONMENT AS DESCRIBED IN SECTION 18-3-303 (2).
 - (d) VIOLATION OF A CUSTODY ORDER OR ORDER RELATING TO PARENTAL RESPONSIBILITIES AS DESCRIBED IN SECTIONS 18-3-304 (1) AND (2).
 - (e) INTERNET LURING OF A CHILD AS DESCRIBED IN SECTION 18-3-306 (3).
 - (f) FAILURE TO REGISTER AS A SEX OFFENDER AS DESCRIBED IN SECTION 18-3-412.5 (2)(a).
 - (g) STALKING AS DESCRIBED IN SECTION 18-3-602 (3)(a).
 - (h) UNLAWFUL TERMINATION OF PREGNANCY IN THE SECOND DEGREE AS DESCRIBED IN SECTION 18-3.5-104 (2)(b).
 - (i) UNLAWFUL TERMINATION OF PREGNANCY IN THE THIRD DEGREE AS DESCRIBED IN SECTION 18-3.5-105.
 - (j) UNLAWFUL TERMINATION OF PREGNANCY IN THE FOURTH DEGREE AS DESCRIBED IN SECTION 18-3.5-106 (2)(b).
 - (k) VEHICULAR UNLAWFUL TERMINATION OF PREGNANCY AS DESCRIBED IN SECTION 18-3.5-107.
 - (l) CHILD ABUSE AS DESCRIBED IN SECTION 18-6-401 (7)(e).
 - (m) SEXUAL EXPLOITATION OF A CHILD AS DESCRIBED IN SECTION 18-6-403 (5)(b).
 - (n) DOMESTIC VIOLENCE — SENTENCING AS DESCRIBED IN SECTION 18-6-801 (7).
 - (o) PANDERING AS DESCRIBED IN SECTION 18-7-203 (2).
 - (p) DISARMING A PEACE OFFICER AS DESCRIBED IN SECTION 18-8-116.
 - (q) EMBEZZLEMENT OF PUBLIC PROPERTY AS DESCRIBED IN SECTION 18-8-407.
 - (r) JURY TAMPERING AS DESCRIBED IN SECTION 18-8-609.
 - (s) FAILURE OR REFUSAL TO LEAVE PREMISES OR PROPERTY UPON REQUEST OF A PEACE OFFICER AS DESCRIBED IN SECTION 18-9-119 (7).

- (t) TERRORIST TRAINING ACTIVITIES AS DESCRIBED IN SECTION 18-9-120 (2).
- (u) BIAS-MOTIVATED CRIMES AS DESCRIBED IN SECTION 18-9-121 (3).
- (v) AGGRAVATED CRUELTY TO ANIMALS AS DESCRIBED IN SECTION 18-9-202 (2)(c).
- (w) ANIMAL FIGHTING AS DESCRIBED IN SECTION 18-9-204 (2)(a).
- (x) INSURRECTION AS DESCRIBED IN SECTION 18-11-102.
- (y) ADVOCATING OVERTHROW OF GOVERNMENT AS DESCRIBED IN SECTION 18-11-201.
- (z) MEMBERSHIP IN ANARCHISTIC AND SEDITIOUS ASSOCIATIONS AS DESCRIBED IN SECTION 18-11-203.
- (aa) USE OF STUN GUNS AS DESCRIBED IN SECTION 18-12-106.5.
- (bb) PENALTY FOR A SECOND OFFENSE AS DESCRIBED IN SECTION 18-12-107.
- (cc) ILLEGAL DISCHARGE OF A FIREARM AS DESCRIBED IN SECTION 18-12-107.5.
- (dd) POSSESSION OF WEAPONS BY PREVIOUS OFFENDERS AS DESCRIBED IN SECTIONS 18-12-108 (2)(b), (2)(c), (4)(b), AND (4)(c).
- (ee) POSSESSION OF HANDGUNS BY JUVENILES AS DESCRIBED IN SECTION 18-12-108.5 (1)(c)(II).
- (ff) POSSESSION, USE, OR REMOVAL OF EXPLOSIVES OR INCENDIARY DEVICES – POSSESSION OF COMPONENTS THEREOF – CHEMICAL, BIOLOGICAL, AND NUCLEAR WEAPONS – HOAXES AS DESCRIBED IN SECTION 18-12-109 (7).
- (gg) FINANCING EXTORTIONATE EXTENSIONS OF CREDIT AS DESCRIBED IN SECTION 18-15-105.
- (hh) WILLFUL DESTRUCTION OF WILDLIFE AS DESCRIBED IN SECTIONS 33-6-117 (1)(a) AND (1)(b)(I).

Class 4 felony offense convictions – eligibility – penalties. (1) EXCEPT AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, ALL OTHER CLASS 4 FELONY OFFENSE CONVICTIONS ARE INELIGIBLE FOR SEALING.

(2) THE FOLLOWING CLASS 4 FELONY CONVICTIONS ARE SUBJECT TO A WAITING PERIOD OF SEVEN YEARS.

- (a) FOURTH DEGREE ARSON AS DESCRIBED IN SECTION 18-4-105 (2).
- (b) CONTRIBUTING TO THE DELINQUENCY OF A MINOR AS DESCRIBED IN SECTION 18-6-701.
- (c) TRAFFICKING IN FOOD STAMPS AS DESCRIBED IN SECTIONS 26-2-306 (2)(c) AND (3).

Testimony in Support of Senate Bill 99
Senate Committee on Judiciary, Colorado General Assembly
Jesse Mallory – State Director
Americans for Prosperity – Colorado
February 24th, 2022

Introduction

Thank you, Chair Lee, and members of the Senate Judiciary Committee for allowing me to offer our support for Senate Bill 99. My name is Jesse Mallory, and I am the State Director at Americans for Prosperity – Colorado. We are a grassroots organization dedicated to outreach, education, and advocacy on long-term solutions to the country’s biggest problems that prevent people from realizing their full potential. This necessarily includes effective reforms to our nation’s criminal justice system; one of the greatest existing barriers to realizing the American dream.

Barriers to a Second Chance

We believe that accountability is an essential component of justice, but when someone has fulfilled the debt they owe to our community it is essential that we incentivize them to become productive citizens in their communities and avoid future criminal behavior. The sad reality is that many individuals exit our justice system believing they will be able to move on from their past mistakes, but they will quickly learn that they face insurmountable barriers.

They will face both societal stigma and more than 720 legal barriers in Colorado law alone that prevent them from accessing meaningful employment, adequate housing, and additional education.¹ These barriers are not only a major contributing factor to Colorado’s 45% recidivism rate but also have a long-term impact on the state’s economy.² Individuals who were previously imprisoned will experience an average annual earnings loss of 52% and even a low-level misdemeanor conviction reduces someone’s average annual earnings by 16%.³ This results in millions of lost economic growth for Colorado’s economy each year.

Another Step Towards True Restoration

S.B. 99 presents Colorado with an opportunity to build upon the success of past reforms and ensure people with a criminal record can secure a true second chance. This bill will not expand eligibility to expungement for any new crimes and will merely streamline the processing of expungements for those who are already eligible. Research has proven the positive benefits of record relief for public safety and our local economies but only a small portion of those who are eligible will be able to successfully navigate the complicated legal process to secure such relief.⁴ This bill will mirror reforms in states like Utah, Pennsylvania, and Virginia and automate this process for minor offenses under Colorado law. On behalf of the thousands of AFP activists in Colorado, I urge you to take this next step towards providing many of your constituents a true second chance.

¹ National Reentry Resource Center, *National Inventory of Collateral Consequences of Conviction*, Bureau of Justice Assistance (2022), <https://niccc.nationalreentryresourcecenter.org/consequences>.

² Colorado Department of Corrections, *Statistics: Recidivism*, Colorado Department of Corrections (2021), <https://cdoc.colorado.gov/about/data-and-reports/statistics> (Colorado defines recidivism as a return to prison or new conviction).

³ Terry-Ann Craigie, et al., *Conviction, Imprisonment, and Lost Earnings*, Brennan Center for Justice (2020), https://www.brennancenter.org/sites/default/files/2020-09/EconomicImpactReport_pdf.pdf.

⁴ Sarah Lageson & Christopher Uggen, *How Work Affects Crime—And Crime Affects Work—Over The Life Course* in HANDBOOK OF LIFE-COURSE CRIMINOLOGY (Chris L. Gibson & Marvin D. Krohn eds., 2013); Nicole Niebuhr & Erin A. Orrick, *Impact of Employment Satisfaction and Stress on Time to Recidivism*, 5 *Corrections* 170 (2020); John M. Nally, et al., *Post-Release Recidivism and Employment among Different Types of Released Offenders: A 5-Year follow-up Study in the United States*, 9 *Int’l J. Crim. Just. Sci.* 16 (2014); Kevin Schnepel, *Do post-prison job opportunities reduce recidivism?*, IZA (2017), <https://wol.iza.org/uploads/articles/399/pdfs/do-post-prison-job-opportunities-reduce-recidivism.pdf?v=1>.