



Testimony from Jenna Bottler, Deputy Director, Justice Action Network

August 31st, 2022

To: Chairman Rob Kauffman, Democratic Chair Tim Briggs, and Members of the Pennsylvania House Judiciary Committee

Re: Support for House Bill 1826, Clean Slate Expansion

On behalf of the Justice Action Network, the nation's largest organization supporting effective, data-driven criminal justice policies, I appear before you today in strong support of House Bill 1826.

The values and virtues of rehabilitation and redemption are at the core of the founding of our country and the Commonwealth of Pennsylvania.

Pennsylvania's own delegate to the Second Continental Congress, Benjamin Franklin, wrote of the importance of the "eternal principle of justice and equity, that punishments should be proportioned to offences."

Clean Slate recognizes this need to ensure that punishments fit the crime, that one bad day does not destroy an entire life, and that natural instinct to improve as humans and strive for more and better for ourselves, our families, and our communities.

In 2018, Pennsylvania made history by enacting the first-ever Clean Slate, an automatic record sealing law. The original measure applied to nonviolent misdemeanors, and required a waiting period of 10 crime-free years prior to receiving a Clean Slate.

Since then, at least six other states have enacted a version of Clean Slate. In addition, in 2021 alone, 34 states enacted 82 laws to authorize, expand, or streamline record clearing or set-asides. As a result, thirty-five other states already provide some form of sealing or expungement for felonies, and half the states that followed Pennsylvania's lead on Clean Slate did so while surpassing the original law by providing for felony record sealing.

If this seems like an outsized focus for state lawmakers, it's because it should be. Twenty million Americans have a felony conviction; 70 million have some form of criminal record. The Federal Bureau of Investigation adds 10,000 names to its database every day. States need sufficient tools to address this growing population, ensuring that those who have served their sentence and chosen to desist from criminal behavior are safely provided with an avenue to rehabilitation via record sealing.

This booming expansion of criminal record sealing and expungement is buttressed by both public safety and economic arguments.

First, people with criminal records who have remained crime-free for four to seven years are no more likely than the general population to commit a new crime. In light of this, record sealing can reduce the likelihood of recidivism by improving access to employment, education, and housing. Indeed, a 2019 Michigan study found that, of those who received an expunged record, "99 percent



of such individuals are not convicted of any felony, 99.4 percent are not convicted of any violent crime, and 96 percent are not convicted of any crime at all within five years of sealing their criminal records."

Specifically for those who received an expungement for a *felony* record, just 4.6% of this population was reconvicted, compared to 3.8% of those with an expunged misdemeanor record.

Second, record sealing is a necessary policy tool to strengthen states' economies. Today, as rising inflation is paired with a job market still rebounding from the impacts of a pandemic, it is more important than ever for states to access all possible sources of workforce, all while empowering individuals to better their economic positions.

Criminal histories can serve as a significant barrier to employment. A 2016 study found employment rates "0.9 to 1.0 percentage points lower as a result of the employment penalty faced by the large population of former prisoners and people with felony convictions." The situation is worse for those less than a high school degree, as much as 7.3 to 8.2 percent lower. That report estimated an annual GDP loss of over \$70 billion because of those depressed employment rates.

At the same time, as of June of this year, 6.2% of jobs in Pennsylvania are unfilled. An expanded Clean Slate under House Bill 1826 can serve to dramatically expand the available workforce, while improving the economic outlook for Pennsylvanians across the state. The same study out of Michigan found that just one year after receiving an expungement, individuals benefitted from an increase in wages of 23%.

Because of these important public safety and economic considerations, House Bill 1826 is an important next step for Pennsylvania, and positions the state to join thirty-five other states that already provide some form of sealing or expungement for felonies.

This legislation is a nuanced, carefully tailored next step. It applies only to nonviolent drug felonies that carry an imposed sentence of 30 months or less. It retains all the key exclusions that the original bill enacted. It furthermore follows the research behind time to redemption by setting the waiting period for nonviolent drug felonies at 10 years, and nonviolent misdemeanors at 7 years.

To date, 1.2 million Pennsylvanians have benefitted directly from Clean Slate, and countless more have indirectly received a benefit.

We urge the honorable members of this committee and your colleagues to cast your vote in favor of House Bill 1826, and for the belief in rehabilitation and redemption the legislation imparts.

Sincerely,

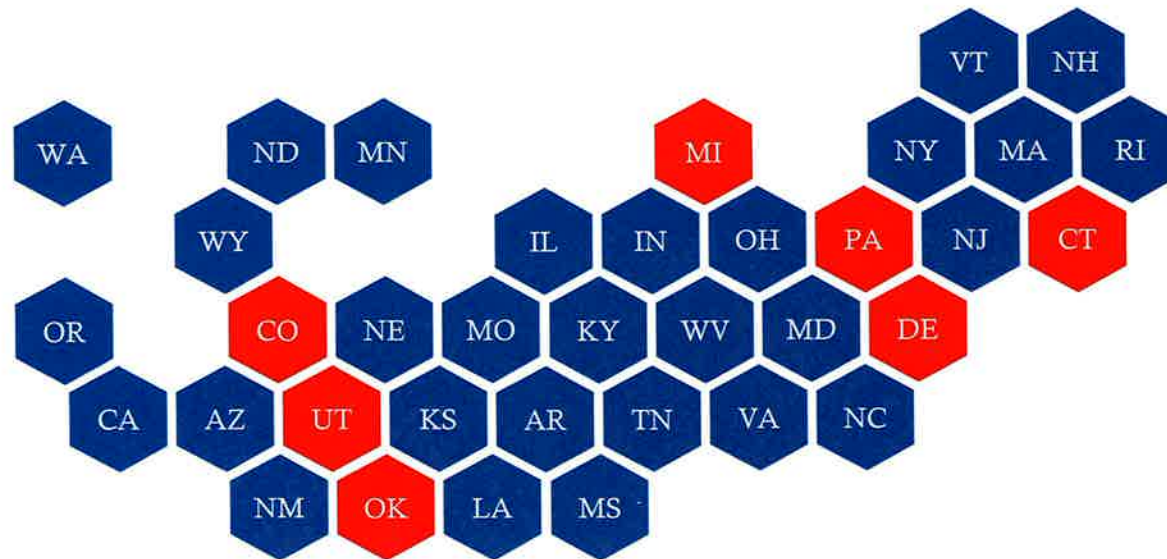
A handwritten signature in black ink, appearing to read "Jenna Bottler", written over a horizontal line.

Jenna Bottler

Pennsylvania's Clean Slate: Improving Lives, Restoring Economies, and Protecting our Communities

Jenna Bottler
Justice Action Network

National Overview



A Growing Scope

- Twenty million Americans have a felony conviction.
- 70 million have some form of criminal record.
- The Federal Bureau of Investigation adds 10,000 names to its database every day.

Grounded in Research: Public Safety Benefits

- People with criminal records who have remained crime-free for four to seven years are no more likely than the general population to commit a new crime.
- Only about 6.5% of those eligible for record sealing sought and completed the process within five years.
- Of those who received an expunged record, “99 percent of such individuals are not convicted of any felony, 99.4 percent are not convicted of any violent crime, and 96 percent are not convicted of any crime at all within five years of sealing their criminal records.”
 - Specifically for those who received an expungement for a *felony* record, just 4.6% of this population was reconvicted, compared to 3.8% of those with an expunged misdemeanor record.

Grounded in Research: Economic Benefits

- A 2016 study found employment rates “0.9 to 1.0 percentage points lower as a result of the employment penalty faced by the large population of former prisoners and people with felony convictions.”
 - The situation is worse for those less than a high school degree, as much as 7.3 to 8.2 percent lower.
 - That report estimated an annual GDP loss of over \$70 billion because of those depressed employment rates.
- At the same time, as of June of 2022, 6.2% of jobs in Pennsylvania are unfilled.
- A year after a record is cleared, people are 11 percent more likely to be employed and are earning 23 percent higher wages.

Automatic Felony Record Sealing

- Michigan: Unlimited number of minor misdemeanors (punishable by less than 93 days in prison) after seven years; four more serious misdemeanors after seven years; up to two less serious felonies after 10 years.
 - Exceptions include assaultive crimes, those punishable by more than 10 years imprisonment, death of person.
- Colorado: class 4, 5, and 6 felonies and class 3 and 4 drug felonies after ten years.
 - Exceptions include crimes of violence and sex crimes.
- Connecticut: Class D and E felonies and unclassified felonies with up to 5-year prison terms after 10 years.
 - Exceptions include family violence crimes and offenses requiring sex offender registration.
- Pennsylvania (proposed): nonviolent drug felonies that carry a potential sentence of 30 months after 10 crime-free years.

Not Eligible for Clean Slate

Offenses relating to criminal homicide, including: Murder, Voluntary manslaughter, Involuntary manslaughter, Causing or aiding suicide, Drug delivery resulting in death, Criminal homicide of law enforcement officer. Offenses relating to crimes against an unborn child, including: Criminal homicide of unborn child, Murder of unborn child, Voluntary manslaughter of unborn child, Aggravated assault of unborn child. Offenses related to assault, including: Simple assault, Aggravated assault, Assault of law enforcement officer, Assault by prisoner, Aggravated harassment by prisoner, Assault by life prisoner, Recklessly endangering another person, Terroristic threats, Propulsion of missiles into an occupied vehicle or onto a roadway, Discharge of a firearm into an occupied structure, Paintball guns and paintball markers, Use of tear or noxious gas in labor disputes, Harassment, Stalking, Ethnic intimidation, Assault on sports official, Neglect of care-dependent person, Abuse of care-dependent person, Unauthorized administration of intoxicant, Threat to use weapons of mass destruction, Weapons of mass destruction, Terrorism, Strangulation. Offenses related to kidnapping, including: Kidnapping, Unlawful restraint, False imprisonment, Interference with custody of children, Interference with custody of committed persons, Criminal coercion, Disposition of ransom, Concealment of whereabouts of a child, Luring a child into a motor vehicle or structure. Offenses related to human trafficking: Trafficking in individuals, Involuntary servitude, Patronizing a victim of sexual servitude, Unlawful conduct regarding documents, Nonpayment of wages, Obstruction of justice. Sexual offenses, including: Rape, Statutory sexual assault, Involuntary deviate sexual intercourse, Sexual assault, Institutional sexual assault, Sexual assault by sports official, volunteer or employee of nonprofit association, Aggravated indecent assault, Indecent assault, Indecent exposure, Sexual intercourse with animal, Conduct relating to sex offenders, Unlawful dissemination of intimate image. Tiered sexual offenses and sexual offenses requiring registration, including: corruption of minors, sexual abuse of children, invasion of privacy, prostitution, obscene and other sexual materials, unlawful contact with minors, sexual exploitation of children and numerous federal sexual offenses. Violations relating to abortion, including: Medical consultation and judgment, Informed consent, Determination of gestational age, Abortion on unborn child of 24 or more weeks gestational age, Infanticide, Payments and referral fees, Failure to file reports, Ordering an abortion, Fetal experimentation, False statements. Offenses against the family, including: Bigamy, Incest, Concealing death of child, Endangering welfare of children, Dealing in infant children, Newborn protection. Offenses involving firearms, including: Persons not to possess, use, manufacture, control, sell or transfer firearms, Firearms not to be carried without a license, Carrying loaded weapons other than firearms, Carrying firearms during emergency, Carrying firearms in public in Philadelphia, Possession of firearm by minor, Possession of firearm with altered manufacturer's number, Sale or transfer of firearms, Retail dealer required to be licensed, Licensing of dealers, Loans on, or lending or giving firearms prohibited, False evidence of identity, Altering or obliterating marks of identification, Use/possession prohibited bullets, Proof of license and exception, Locking devices, Carrying explosives on conveyances, Shipping explosives. Cruelty to animals (not eligible for Clean Slate, but eligible for Act 5 Limited Access) – see Section 5533 of the Crimes Code.

Thank you!

jenna@justiceactionnetwork.org

202-760-0410

www.justiceactionnetwork.org