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TESTIMONY 2015

HB 477

Dear Members of the Committee,

Thank you for allowing me this opportunity to present testimony in favor of HB 477, which will improve the accuracy of criminal records through greater transparency and accountability.

WIDESPREAD DISSEMINATION OF CRIMINAL RECORDS HARMS THE WORKFORCE AND TEXAS FAMILIES

Open access to criminal records through government repositories and commercial vendors, combined with the rise of the Internet and the emergence of electronic databases, has enabled more than 40 million criminal background checks to be performed annually for non-criminal justice purposes.¹

As a result of this online expansion, individuals across our state are frequently denied employment and housing based on criminal records that have been sold and published online—some of which never resulted in a conviction, and some of which are completely inaccurate and unfairly punish those who never committed a crime. Not only do these individuals suffer as a result of inadequate policies that regulate the storage and dissemination of criminal records, but our workforce and families suffer as well.

The widespread commercial publication of criminal records before a disposition is entered, as well as the long-lasting nature of data housed online, effectively prevents thousands of individuals from obtaining or keeping jobs and housing. **In order to allow individuals to give back to their communities and families in ways that enhance public safety, Texas must reform its laws related to the dissemination of criminal records.**

KEY FINDINGS

- **In Texas, nearly 12 million individuals are included in the state criminal history records.**² These criminal history records are made up of arrests and subsequent dispositions, including those who were arrested but not convicted, those who have completed their sentences, those who have shown stability and established themselves in their communities, and those who are desperately trying to support themselves and their families while facing the many obstacles that automatically accompany any kind of criminal record.
- **Employers and housing providers often rely on inaccurate or incomplete criminal records.** The Texas Department of Public Safety reported in January 2013 that only 81% of Texas adult arrests in 2011 had a reported disposition.³ In other words, **nearly 1 in 5 of all Texas criminal records do not include final dispositions**. The inaccuracies that can result from disseminating records without final dispositions have allowed individuals to be denied employment and housing even without a criminal conviction. Additionally, even if certain records are ordered sealed or expunged, there is no guarantee that third-party commercial vendors will purge the information from their systems or that the event will be erased from media archives,⁴ creating additional challenges for system-involved individuals seeking employment and housing.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 477 BY REPRESENTATIVE DUTTON

HB 477 will ensure that subjects of criminal records requests know what information is being shared and with whom. When individuals know what information is disseminated to the public, they can take action to update incorrect information and, when appropriate, take legal action to hold private companies accountable for maintaining up-to-date and correct criminal records. Knowledge of what information is disseminated not only grants power to consumers, but protects their ability to contribute to the economy by eliminating the barriers they may face to employment and housing.

Citations on reverse.

Citations

¹ Helen Gaebler, “Criminal Records in the Digital Age: A Review of Current Practices and Recommendations for Reform in Texas,” (William Wayne Justice Center for Public Interest Law, The University of Texas School of Law, 2013): 2. Tex. Bus. and Comm. Code, § 109.002(2).

² Dennis A. DeBacco & Owen M. Greenspan, “Survey of State Criminal History Information Systems, 2012,” (Bureau of Justice Statistics, U.S. Department of Justice, 2014): Table 1, <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>. The number of individual offenders in the state criminal history file was 11,824,200.

³ Texas Department of Public Safety, “Eleventh Report Examining Reporting Compliance to the Texas Computerized Criminal History System,” (January 2013): 3, http://www.txdps.state.tx.us/administration/crime_records/pages/complianceRpt11.pdf.

⁴ SEARCH, *Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information* (2010): 83, <http://www.search.org/files/pdf/RNTFCSCJRI.pdf>.