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HOUSE BILL 2386

Dear Members of the Committee,

Thank you for allowing me the opportunity to submit written testimony in support of House Bill (H.B.) 2386 by Representative Castro, which would expand judicial discretion in sealing a youth's juvenile record contingent upon the youth's successful completion of a court-ordered program.

PROBLEM

As the law currently stands, youth are only eligible to have their records sealed at age 21, upon meeting multiple criteria, and with the help of an attorney. Judges have no discretion in sealing a juvenile's record outside of this process, thus preventing them from using the sealing of records as an incentive in encouraging a youth to improve his or her behavior.

BACKGROUND

Officially, juvenile records are confidential from the general public and should only be viewed by law enforcement and correctional entities.¹ However, they can potentially (and often do) make their way into the hands of employers, schools, landlords and others, thus jeopardizing a youth's future. Access to these records can significantly impede a youth's ability to find employment, join the military, and apply for housing, financial aid, or a driver's license.

Significant scientific research demonstrates that youth are more amenable to rehabilitation than adults. Thus, the likelihood that court-ordered rehabilitative programs will succeed in assisting a troubled youth offender in stopping his or her illegal activity is high. Allowing juvenile judges to reward youth who successfully complete specialized treatment programs by immediately sealing their record will protect young people who are trying to turn their lives around from discrimination and ease their transition into a productive and law-abiding adulthood.

FACTS

- In 1995, a case before the Supreme Court held that "the overarching objective of the juvenile court was to protect juveniles from a negative social stigma in order to facilitate rehabilitation.² Part of achieving this objective is ensuring that a past juvenile record does not result in lifelong collateral consequences. Moreover, "[r]espect for confidentiality rights is particularly crucial for young people. It allows them to exert some measure of control over their world and to develop a degree of trust in those around them."³
- Research demonstrates that stigmatizing young people for delinquent conduct only inhibits their rehabilitation, and can lead to poor-self image, rejection of authority figures, encourages further delinquent behavior, and damages positive relationships with family, teachers, and peers.⁴
- Emerging neurological research demonstrates that there are real, physical differences between the brains of children and the brains of adults. The human brain undergoes significant developmental changes in the years between adolescence and adulthood, and the parts of the brain that "govern impulsivity, judgment, planning for the future, foresight of consequences, and [the] other characteristics that make people morally culpable" does not fully mature until a person reaches his or her early twenties.⁵

SOLUTION: SUPPORT H.B. 2386 BY REPRESENTATIVE CASTRO

H.B. 2386 would provide an additional avenue for judges to immediately seal a youth's records without the need for an attorney, if the child successfully completes a drug court program or another special program ordered by the court. HB 2386 would expand the number of tools available to juvenile judges, and ensure that troubled youth who have proven their commitment to turning their lives around are given a chance at a clean slate without unnecessary and counterproductive delays.

¹ Texas Juvenile Probation Commission, *Texas Juvenile Justice System Files and Records: A Parent and Child's Guide to Understanding Automatic Restriction of Access to Records*, Austin, TX, March 2003.

² *United States v. Three Juveniles*, 61 F.3d 86 (1st Cir. 1995).

³ Bridgett E. Jones, "Information Sharing and Confidentiality," *Center on Criminal and Juvenile Justice*, March 2002, 9.

⁴ Kristin Henning, "Eroding Confidentiality in Delinquency Proceedings: Should Schools and Public Housing Authorities be Notified?" *New York University Law Review* 79, no.2 (2004): 523-530.

⁵ Thomas, Holly A., *No Chance to Make it Right: Life Without Parole for Juvenile Offenders in Mississippi* (NAACP Legal Defense & Education Fund), 4.