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April 12, 2019

The Honorable Paul Renner
Chair, House Judiciary Committee
Florida House of Representatives
402 S. Monroe Street, Room 417 HOB
Tallahassee, FL 32399-1300

Re: HB 7125 Public Safety

Dear Representative Renner:

We are writing to express our concerns regarding Section 47 in HB 7125, requiring the Florida Department of Law Enforcement to adopt rules to implement automatic administrative sealing of criminal history records under specific conditions. We respectfully suggest an amendment be filed deleting Section 47 from the bill.

Current law allows for expunction of a criminal history record under specified conditions and there is a statutory structure in place with clearly defined steps and requirements. All expunction applications are *manually reviewed* for compliance with those legal requirements. Importantly, a request for expunction can be denied after a manual review and a person can have a criminal history record expunged only once, ensuring that repeat offenders can't hide behind multiple expunctions.

In direct contrast, HB 7125 as currently drafted requires the adoption of rules providing for an *automatic administrative seal* for those acquitted or found not guilty – an application isn't required, and the criminal history records aren't reviewed before sealed. Additionally, there is no limit on the number of times a person's criminal history records can be sealed so it's entirely possible that a person who is tried multiple times for the same or similar crime to have multiple records sealed.

As we know, there are a host of reasons for acquittals and findings of not guilty, including a lack of evidence or when a witness fails to appear. Many sexual assault victims, for example, do not want to testify in an open courtroom and as a result charges against the defendant can be dropped or, if the case goes to trial, the court may acquit or find the defendant not guilty.

If Section 47 of HB 7125 were to become law, a person could be charged and tried one or more times for a lewd and lascivious act on a child, for example, and if acquitted or found not guilty because of a lack of evidence, that person would not show up on FDLE's criminal background check webpage. If that person then applies for a position with a school or day care center, there would be no mention of the charges. It should be noted that the current expunction statutes require a person charged with a crime such as lewd and lascivious act on a child – as well as a number of other crimes – disclose that fact if seeking employment with an agency responsible for the protection of vulnerable persons, including children, the elderly and the disabled. Such is *not* the case with the required automatic administrative seal process under HB 7125, which does not require disclosure.

Equally alarming, as a diligent employer I would not find any record on the FDLE website of a potential employee who had been charged and acquitted of stealing from a former employer regardless of the basis for that acquittal.

The automatic administrative sealing of criminal history records is a dramatic shift in public policy, and we believe the provision poses a serious and real threat to public safety.

If you have any questions or would like additional information about our position and concerns, please don't hesitate to contact us.

Sincerely,



Barbara A. Petersen, President

Cc: The Honorable W. Travis Cummings, Chair, House Appropriations Committee
