



The Judiciary, State of Hawai'i

Testimony to the Thirty-Second State Legislature, 2023 Regular Session

House Committee on Judiciary & Hawaiian Affairs

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice Chair

Thursday, March 16, 2023, 2:00 p.m.

Conference Room 325 & Via Videoconference

WRITTEN TESTIMONY ONLY

By:

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District Court of the First Circuit

Bill No. and Title: Senate Bill No. 1079, SD1, Relating to Expungement.

Purpose: Requires courts to, upon written request, expunge records of convictions for (1) operating a vehicle after consuming a measurable amount of alcohol while under the age of twenty-one and (2) certain property offenses, if the sentencing occurred prior to 1998. Takes effect 3/22/2075. (SD1)

Judiciary's Position:

The Judiciary takes no position regarding the intent of the measure and provides comments on aspects of the measure that may cause operational issues for the courts.

The Judiciary is concerned that court case documents filed prior to 1998 are not available in electronic format, and if needed for purposes of this measure, may not be readily accessible. Any manual research by court staff required by this measure may divert court resources from other current issues. The Judiciary will also need to make changes to the Judiciary Information Management System that will require design and testing. Therefore, the Judiciary respectfully requests that this measure take effect on July 1, 2025 to allow system changes to be made.

Thank you for the opportunity to testify on this measure.

STATE OF HAWAI‘I
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai‘i to the House Committee
on Judiciary & Hawaiian Affairs**

March 16, 2023

S.B. No. 1079, S.D.1: RELATING TO EXPUNGEMENT

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Office of the Public Defender strongly supports S.B. No. 1079 S.D.1, which would require courts, upon application, to grant an expungement order to expunge convictions for first-time offenderS of operating a vehicle after consuming a measurable amount of alcohol for persons under the age of twenty-one years old and first-time property offenders for convictions that occurred prior to July 1, 1998.

Clean Slate Law, a law firm in Oklahoma specializing in expungements and pardons, described the significance of expunging criminal convictions: “An expungement is an investment in your future because it erases parts of your past that no longer match who you are now.”¹ This bill will benefit individuals who have committed either of the aforementioned offenses over 25 years ago, and, one can presume, who are now in a very different place in their life. While the offense(s) occurred a lifetime ago, these individuals would otherwise be forced to continue to suffer the harsh consequences of being saddled with a criminal record, such as finding employment. In addition to employment, studies are showing, criminal convictions also involve broader everyday issues such as educational opportunities, the stigma of having a criminal record, housing options, starting or expanding a family, public assistance, insurance premiums, volunteering in community work, and privacy. This bill has the true potential to assist many in finding better employment and improving their all-around quality of life.

¹ <https://www.cleanslate.law/blog/9-benefits-of-expunging-your-criminal-record#:~:text=An%20expungement%20is%20a%20legal,in%20a%20criminal%20background%20check.>

Indeed, studies are confirming the tangible benefits of expunging one's criminal record. In a ground-breaking study published in 2020 in the *Harvard Law Review*,² the authors J.J. Prescott and Sonja B. Starr found that "those who obtain expungement experience a sharp upturn in their wage and employment trajectories; on average, within one year, wages go up by over 22% versus the pre-expungement trajectory..."³ And perhaps even more impressive, the study found that "those who do obtain expungement have extremely low subsequent crime rates, comparing favorably to the general population..." The proposed amendments in S.B. No. 1079, S.D.1 represent a rare win-win situation – where individuals as well as the community will benefit.

Thank you for the opportunity to comment on this measure.

² The authors entered into a data-sharing agreement with multiple Michigan state agencies. They studied data from 1983 to mid-2011, examining over 30,000 cases in addition to an examination of a list of first-time offenders who were eligible for expungement between 1999 and 2008.

³ Prescott, J.J. "Expungement of Criminal Convictions: An Empirical Study." Sonja B. Starr, co-author. *Harv. L. Rev.* 133, no. 8 (2020): 2460-555.