

## ACT 241

S.B. NO. 2706

A Bill for an Act Relating to Expungement of Criminal Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that approximately seventy-seven million people living in the United States, or one in three adults, have a criminal record. In some instances, the person was arrested but ultimately not convicted of any crime. The legislature recognizes that arrest and conviction records often adversely affect a person's financial and housing security by limiting the person's access to employment, housing, or a professional license. As of 2019, three hundred thousand residents of the State have been adversely affected by past criminal records, hindering their ability to fully participate in society, access employment, housing, and other opportunities.

The legislature notes that by being more easily available to attain employment and housing, individuals with cleared records are significantly less likely to reoffend, contributing to safer communities and reducing recidivism rates.

The legislature also finds that many states, including Hawai'i, have laws that allow persons who meet certain eligibility criteria to petition or apply for the removal of a criminal record. This current process is administratively cumbersome and creates an unnecessary burden on the criminal legal system, whereby resources are inefficiently allocated to administer and review these petitions. Furthermore, the citizens engaged in this process must face an additional burden before being able to clear their records.

The legislature further finds that making the procedure state-initiated would eliminate the need for an eligible person to navigate this process and pay any required processing fees. According to research compiled by the National Conference of State Legislatures, twenty states have at least one statutory state-initiated record-clearing provision as of July 2021. Michigan, New Jersey, Pennsylvania, and Utah are examples of states having laws that automate the record-clearing process; these laws are sometimes known as "clean slate laws". As of 2024, twelve states are already engaging in state-initiated record clearing processes.

The legislature finds that these states, through implementing some type of clean slate laws, have increased access to opportunities for their citizens, re-

moved barriers to reintegration that disproportionately impact marginalized communities, increased public safety, and streamlined legal processes.

Accordingly, the purpose of this Act is to establish the clean slate expungement task force to develop a state-initiated record clearing program.

SECTION 2. (a) There shall be established the clean slate expungement task force to develop a state-initiated record clearing program. The clean slate expungement task force shall be attached to the judiciary for administrative purposes only.

(b) The clean slate expungement task force shall provide recommendations:

- (1) For legislation related to a record clearing program that:
  - (A) Expands access to employment, education, and other necessities required for successful reintegration as a successful member of society;
  - (B) Promotes equity and fairness by removing barriers within the criminal legal system that disproportionately impact marginalized communities;
  - (C) Enhances public safety by adopting best practices for clearing records that have been linked to a reduction in recidivism; and
  - (D) Streamlines the procedures involved in the record clearance process to reduce the time and resources required by the various state entities responsible for the implementation of record clearance; and
- (2) To the judicial council that will inform the review of the Hawaii Penal Code.

(c) The clean slate expungement task force shall be composed of one representative from the following entities:

- (1) The judiciary, whose representative shall convene the task force;
- (2) The department of the attorney general;
- (3) The office of Hawaiian affairs;
- (4) The office of the public defender;
- (5) The offices of the prosecuting attorney of the county of Hawai'i, county of Maui, city and county of Honolulu, and county of Kaua'i; and
- (6) The Hawai'i innocence project at the university of Hawai'i at Mānoa William S. Richardson school of law.

(d) The clean slate expungement task force shall invite one representative from each of the following entities to participate as members of the task force:

- (1) The Hawaii Workers Center;
- (2) The ACLU of Hawai'i;
- (3) The Hawai'i Friends of Restorative Justice; and
- (4) The Last Prisoner Project.

(e) The clean slate expungement task force shall invite two directly impacted individuals with lived experience in the criminal legal system to participate as members of the task force.

(f) The clean slate expungement task force shall seek technical assistance from:

- (1) The Clean State Initiative;
- (2) Code for America; and
- (3) SEARCH - System for the Electronic Analysis and Retrieval of Criminal Histories.

(g) The clean slate expungement task force shall submit an interim report of its findings and recommendations, including any proposed legislation, to the legislature no later than forty days prior to the convening of the regular sessions of 2025 and 2026. The clean slate expungement task force shall submit a final report of its findings and recommendations, including any proposed legislation, to the legislature no later than forty days prior to the convening of the regular session of 2027.

(h) The clean slate expungement task force shall be dissolved on June 1, 2027.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved July 9, 2024.)