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To: Senate Judiciary Committee
From: Oregon Law Center
Date: February 22nd, 2021
Re: Support for SB 397

Chair Prozanski, Vice-Chair Thatcher, and members of the committee:

On behalf of the Oregon Law Center, I submit this testimony in support of SB 397, which would streamline and improve Oregon’s criminal record expungement process.

The Oregon Law Center (OLC) is a statewide non-profit law firm whose mission is to achieve justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. OLC uses its limited resources to serve only the most critical legal needs— food, shelter, basic medical care, physical safety, and self-sufficiency. By ensuring access to justice for our clients in these areas, we can remove barriers to escaping poverty.

Having a criminal record can prevent access to housing, employment, and education, long after the completion of a person’s sentence. It is well-documented that our carceral system, and its after-effects, impact Oregon’s Black, Indigenous, and communities of color disproportionately, due to longstanding systemic and structural racism.¹ Our state’s expungement statutes were drafted with the goal of removing barriers to re-entry for those who qualify. In their current form, our statutes do not adequately or equitably accomplish that goal.

Recently, OLC has begun to engage in reentry work, assisting clients who qualify for expungement so that they can become or stay house and employed. The stability that comes from obtaining employment and housing helps reduce rates of recidivism and improves clients’ lives overall. Monthly OLC expungement clinics, staffed by pro bono attorneys, have assisted hundreds of low-income clients in setting aside their convictions and records of arrest. We are grateful for the work of our pro-bono volunteers, and for the clinic’s impact on our clients’ lives.

We have seen the remarkable difference expungement can make for our clients, but we have also become informed about the myriad barriers clients face in seeking relief under current law. High

¹<https://www.oregon.gov/cjc/CJC%20Document%20Library/AdultCJSystemRacialandEthnicStatementBackground.pdf>

fees, long waiting periods, and complicated eligibility calculations result in inequitable access to greater housing and employment opportunity. Senate Bill 397 simplifies the process and removes barriers to participation. Based on the experiences of our clients, OLC supports the following elements of the bill:

Removal of fees: The process of seeking an expungement under current law requires the payment of filing fees, background check fees, and fingerprinting fees. For our low-income people already hampered in their employment prospects due to their records, these fees are insurmountable. We have sought grant funding to help offset those costs for our clients. While some counties waive filing fees for eligible low-income filers, counties throughout the state are inconsistent in granting waivers—resulting in disparities not just between those with means to file and those without, but between those living in different counties within Oregon. SB 397 proposes to remove these fees from the process, making expungement (and housing and employment opportunity) more available to those who qualify.

Streamlining complex provisions: The current statute includes complicated exceptions and look-back periods, paired with confusing and conflicting provisions. Senate Bill 397 repairs these complications by:

- Simplifying the statutory language and procedures for filing;
- Removing exceptions and aligning look-back periods with waiting periods;
- Creating statewide standardized forms;
- Removing barriers to accelerated processing; and
- Clarifying the burden of proof.

Reduction of waiting period and lookback periods: Under current law, arrests resulting in no charges filed by the District Attorney (“no-complaints”), require a one-year waiting period, and have the result of restricting other eligible filings. This is inconsistent with the presumption of innocence. Senate Bill 397 identifies this inequity by prioritizing prompt set aside of all non-convictions. The bill also reduces the overly long look-back periods for certain crimes, to bring Oregon statute into alignment with best practices.

In closing: Nearly 1 in 3 Americans adults have some kind of criminal history.² The impacts of this history limit the chances of future success. Studies have shown that expungement of criminal history leads to greater access to housing, employment, and successful re-entry.³ We must improve our expungement process as one step towards redressing the disproportionate impact of our criminal justice system on BIPOC communities in Oregon.

We understand that there may be necessary technical amendments to this bill to ensure practical and equitable implementation. We urge stakeholders to resolve these issues. OLC urges passage of the above improvements to Oregon’s expungement statutes. Thank you for your time and for your dedication to Oregonians.

² <https://www.hud.gov/sites/documents/15-10HSGN.PDF>, citing Bureau of Justice Statistics, U.S. Dep’t of Justice, Survey of State Criminal History Information Systems, 2012, 3 (Jan. 2014), available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>

³ [https://crimeandjusticeresearchalliance.org/rsrch/the-effects-of-record-clearance-on-ex-offender-
recidivism/#:~:text=Record%20clearance%20\(or%20expungement\)%20reduced,for%20successful%20reintegration%20into%20society.](https://crimeandjusticeresearchalliance.org/rsrch/the-effects-of-record-clearance-on-ex-offender-
recidivism/#:~:text=Record%20clearance%20(or%20expungement)%20reduced,for%20successful%20reintegration%20into%20society.)