

March 12, 2019

The Honorable Wendy McNamara
Chair, House Committee on Courts and Criminal Code
Indiana House of Representatives

The Honorable Donna Schaibley
Vice Chair, House Committee on Courts and Criminal Code
Indiana House of Representatives

Re: Senate Bill 36

Dear Representative McNamara and Representative Schaibley:

The undersigned organizations write to express opposition to legislation currently under consideration by your committee - SB 36, which would create a publicly available registry for residents with a prior felony conviction.

Recent years have seen a national, bipartisan movement towards criminal justice reform that seeks to promote successful reentry and remove the collateral consequences of conviction faced by returning citizens. Across the country, lawmakers on both sides of the aisle are supporting policies designed to improve reentry outcomes, including expanding expungement eligibility and record sealing, easing restrictions on occupational licensing, and ensuring that people returning from a period of incarceration are not faced with unnecessary barriers to their successful reentry. In fact, a report by the Collateral Consequence Resource Center called 2018 “the high point of recent state efforts to restore rights and status to people with a criminal record.”¹ Twenty states, enacted laws making it easier for people to seal and expunge their criminal records. Seventeen states, including Indiana, enacted laws limiting when and how employers and licensing boards may utilize an applicant’s criminal record. Indiana now prevents licensing boards from considering convictions more than five years old. With one out of three Americans having a criminal record, the critical need to embrace these “second chance” measures have become increasingly apparent to lawmakers and the public. Yet, SB 36 would take Indiana in the opposite direction.

The flawed rationale for public crime registries is that public safety is enhanced by allowing the general public to search online for people with certain criminal convictions who are residing in their communities. On the contrary, “registries act as one more shackle around the hands of those trying to re-enter society – heightening risk factors [such as poor housing, unemployment, social isolation and poverty] that criminologists say only up the chances that an ex-offender will turn to criminal activity again.”² Pertaining to sex offender registration laws, studies have shown that the

¹ Margaret Love and David Schlüssel, Reducing Barriers to Reintegration: Fair Chance and Expungement Reforms in 2018 (Washington, DC: Collateral Consequences Resource Center, 2019), 4. Retrieved from: <http://ccresourcecenter.org/wp-content/uploads/2019/01/Fair-chance-and-expungement-reforms-in-2018-CCRC-Jan-2019.pdf>.

² Felton, Emmanuel (2017). Public Crime Registries Rarely Work, So Why Do They Continue to Grow? Pacific Standard. Retrieved from <https://psmag.com/news/public-crime-registries-rarely-work-so-why-do-they-continue-to-grow>.

passage these laws has had no systematic influence on the number of rapes committed.³ The collateral consequences associated with crime registries can be felt indefinitely, extending long after the offense occurred. Indeed, public registries are antithetical to everything we know about recidivism and public safety.

As discussed in a 2014 report on the impacts of collateral consequences on people with a criminal history entitled, “*Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime – A Roadmap to Restore Rights and Status After Arrest or Conviction*,” research has shown that enabling someone to earn a living is the best way to keep them from committing another crime.⁴ However, the excessive barriers confronting those with a criminal conviction can make the task of providing for oneself and one’s family nearly impossible. Setting up impassable barriers for those with convictions is counterproductive and undermines public safety.

SB 36 would be a step backward, doing nothing to bolster public safety, but would exacerbate the economic and social cost to the community, including loss of tax revenue from unemployment, an overreliance upon government assistance, or even homelessness. Legislation should not resurrect more barriers to successful reentry but should allow people the greatest opportunity to become contributing members of society.

For these reasons, we urge you to vote no on SB 36.

Sincerely,

National Association of Criminal Defense Lawyers
Law Enforcement Action Partnership
R Street Institute

cc: Members, House Committee on Courts and Criminal Code

³ The Influence of Sex Offender Registration and Notification Laws in the United States. *Crime and Delinquency*, 2018. Retrieved from: <https://journals.sagepub.com/doi/abs/10.1177/0011128707311641?journalCode=cadc>.

⁴ *Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime – A Roadmap to Restore Rights and Status After Arrest or Conviction*. This publication is available online at: www.nacdl.org/restoration/roadmapreport.