



NORMAN L. REIMER  
Executive Director

March 29, 2019

VIA EMAIL

The Honorable Michelle Lujan Grisham  
Governor of New Mexico  
490 Old Santa Fe Trail  
Room 400  
Sante Fe, NM 87501

**Re: Comments on House Bill 370, the “Criminal Record Expungement Act”**

Greetings Governor Lujan Grisham:

I write on behalf of the National Association of Criminal Defense Lawyers (“NACDL”) to express NACDL’s support for H.B. 370, the “Criminal Record Expungement Act.”

NACDL is the preeminent organization in the United States advancing the mission of the nation’s criminal defense lawyers to ensure justice and due process for persons accused of crimes or other misconduct and to promote the proper and fair administration of justice. A professional bar association founded in 1958, NACDL’s many thousands of direct members in 28 countries – and 90 state, provincial and local affiliate organizations totaling up to 40,000 attorneys – include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges committed to preserving fairness and promoting a rational and humane criminal justice system. Representing thousands of criminal defense attorneys who are intimately aware of the inadequacies of the current criminal justice system, NACDL is recognized domestically and internationally for its expertise on criminal justice policies and best practices.

NACDL’s representation of the defense perspective in the courts is unparalleled. NACDL files 60-70 amicus briefs every year, in courts ranging from the U.S. Supreme Court to federal circuit courts of appeals and state high courts and appellate courts. In the U.S. Supreme Court, NACDL is the most cited and, according to the leading Supreme Court blog, most effective amicus.



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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.”<sup>1</sup> Twenty states, enacted laws making it easier for people to seal and expunge their criminal records, including Pennsylvania, becoming the first state to seal criminal cases by automated computer processes.

H.B. 370 would allow an individual to petition the court to expunge public records related to their case. Depending on the seriousness of the charges, a person will have to wait longer to be eligible to have their record expunged. With one out of three Americans having a criminal record, the critical need to embrace these “second chance” measures and legislation such as H.B. 370 have become increasingly important and apparent to lawmakers and the public.

As discussed in our 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.<sup>2</sup> 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.

Empirical evidence upholds the benefits of expanding the availability of expungement. A recent study of Michigan’s expungement law found that individuals

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

<sup>2</sup> *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](http://www.nacdl.org/restoration/roadmapreport).



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who had their records expunged have extremely low subsequent crimes rates, and within two years, their wages increased by more than 25 percent.<sup>3</sup> Providing individuals with a criminal record an opportunity to have their criminal record expunged will decrease the number of people burdened with collateral consequences, resulting in more people becoming contributing members of society

For these reasons, we urge you to support H.B. 370.

Sincerely,

Norman L. Reimer, Executive Director  
National Association of Criminal Defense Lawyers

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<sup>3</sup> Prescott, J.J. and Starr, Sonja B., Expungement of Criminal Convictions: An Empirical Study (March 16, 2019). U of Michigan Law & Econ Research Paper No. 19-001. Available at SSRN: <https://ssrn.com/abstract=3353620> or <http://dx.doi.org/10.2139/ssrn.3353620>.