



DUE PROCESS

INSTITUTE

April 4, 2022

The Honorable Jerrold Nadler
Chairman, Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Jordan
Ranking Member, Judiciary Committee
2142 Rayburn House Office Building
Washington, DC 20515

Chairman Nadler and Ranking Member Jordan,

Due Process Institute applauds the House Judiciary Committee for its consideration of the Kenneth P. Thompson Begin Again Act, H.R. 1924. April is Second Chance Month, during which advocates across the political and ideological spectrum raise awareness to the barriers that individuals with a criminal record often face. These barriers are not insignificant.

The consequences of a criminal arrest or conviction—even involving the most minor of criminal offenses—frequently impact an individual for many years even after he or she completes a jail sentence. A criminal record significantly hinders job, education, and housing opportunities for a person who is in need of stability and seeking ways to make positive changes in their life. This not only unfairly continues our societal punishment of the individual (and their family) after the conclusion of their case, it also has an adverse impact on public safety because failure to secure employment and housing increases the likelihood of a person’s recidivism.

Over the past several years, a bipartisan consensus has emerged in state legislatures to do something about the barriers created by a criminal record. Today, [more than 40 states have expungement or record-sealing statutes on the books](#). Expungement essentially “erases” the offense while record-sealing hides the offense from non-law enforcement entities, such as employers. The specifics of these laws vary from state to state, but the overwhelming majority of states in our nation recognize the need for expungement or record-sealing under certain circumstances.

The evidence shows that these laws are having their primary intended effect, which is to reduce recidivism. For example, a [2020 study conducted by the University of Michigan Law School](#) found that the five-year recidivism rate (as measured by a rearrest) for individuals in Michigan whose records were expunged was 7.1 percent. Only 2.6 percent of those were arrested for a violent crime. Recidivism as measured by reconviction was only 4.2 percent for all individuals whose records were expunged, with less than 1 percent

being convicted of a violent crime and only 1 percent convicted of a felony. The study authors explain that expungement recipients in Michigan actually pose a lower crime risk than the general population. Importantly, this study also looked at economic outcomes of expungement, with Michigan expungement recipients seeing annualized wage gains of \$4,295 for men and \$4,594 for women when compared to job-training programs that only increased wages by \$471 for men and \$832 for women.

Unfortunately, our federal system is lagging far behind what is happening on the state level. Currently, there is only one very limited expungement statute—[18 U.S.C. § 3607\(c\)](#)—which potentially allows a person to expunge a first-time charge of simple possession of a controlled substance under [21 U.S.C. § 844](#). Under this law, a first-time offender can seek prejudgment probation for up to a year and, if they comply with all probation conditions during that time, they may seek dismissal of the federal possession charge and therefore avoid conviction. Then, those under the age of 21 can seek expungement of records associated with the offense after successful completion of probation.

Obviously, this age limitation in current federal law prevents many others who are facing first-time simple possession charges from expunging their records. The **Kenneth P. Thompson Begin Again Act**, [H.R. 1924](#) and [S. 2502](#), would amend current law to remove the age cap and thus expand the availability of record expungement to any person charged with their first offense of simple possession who has successfully completed prejudgment probation regardless of their age.

This bipartisan effort led by Rep. Hakeem Jeffries (D-NY), Rep. Van Taylor (R-TX), Sen. Chris Coons (D-DE), and Sen. John Cornyn (R-TX), doesn't solve all the issues of how burdensome a criminal record can be for someone who is trying to get his or her life on the right path. But the legislation is a stepping stone of hope to many deserving of a second chance.

Due Process Institute strongly urges all members of the House Judiciary Committee to vote for the Kenneth P. Thompson Begin Again Act, H.R. 1924.

Sincerely,

Jason Pye
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Due Process Institute
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cc: The Honorable Hakeem Jeffries