

October 9, 2020

Hon. Hakeem Jeffries
United States House of Representatives
2433 Rayburn House Office Building
Washington, D.C. 20515

Hon. Van Taylor
United States House of Representatives
1404 Longworth House Office Building
Washington, D.C. 20515

Letter of Support for the Kenneth P. Thompson Begin Again Act

Dear Representatives Jeffries and Taylor:

On behalf of the undersigned organizations, we write to express support for the Kenneth P. Thompson Begin Again Act, which would remove the age requirement for those seeking an expungement order for first-time drug possession offenses. This legislation is a smart, carefully crafted means to alleviate collateral consequences associated with a criminal record and will help individuals get back to work and make communities safer.

Far too often, punishment does not end once a sentence is completed, but rather has a lasting impact for subsequent years and in many cases a lifetime. Roughly one third of adults in the United States, or 70 to 100 million people, have a criminal record, whether it's an arrest or conviction or prison sentence. A criminal record invokes thousands of collateral consequences affecting individuals' and families' everyday lives that are often overlooked by the public and judiciary. The National Inventory of Collateral Consequences of Conviction estimates that there are roughly 44,605 total consequences from state and federal laws affecting people with convictions, over 26,000 of which are permanent or indefinite.¹

Even misdemeanor offenses can have serious implications on an individual's ability to find steady employment, obtain housing, and access public assistance. Studies show that a criminal record can be so damaging to an applicant's odds of being offered a job that it can lower the likelihood of receiving a call back by as much as 50 percent in comparison to applicants without a criminal record.² This is especially concerning, as obtaining a job has long been cited as one of the more impactful factors to lowering recidivism rates.³

Under current law, relief from these collateral consequences for first-time, simple possession offenses is drastically limited in scope. Section 3607(c) of Title 18 of the United States Code strictly limits expungement opportunities for these offenses to individuals who were under 21 years of age at the time of the offense.⁴ This outdated age requirement only exacerbates the myriad collateral consequences impacting individuals seeking to turn their lives around. By

¹ *Collateral Consequences Inventory*, Nat'l Inventory of Collateral Consequences of Conviction (Oct. 2019), https://niccc.csgjusticecenter.org/database/results/?jurisdiction=&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1

² Devah Pager et al., *Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records*. NAT'L CTR. FOR BIOTECHNOLOGY INFO. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3583356/>

³ U.S. Comm'n on Civ. Rts., *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities* 36 (June 2019). <https://www.usccr.gov/pubs/2019/06-13-Collateral-Consequences.pdf>

⁴ Pub. L. 98-473, title II, § 212(a)(2), Oct. 12, 1984, 98 Stat. 2003.

imposing this current restriction on older demographics, the law is effectively punishing individuals who are less likely to recidivate for a longer period of time.⁵

States across the nation with different political leanings and cultural backgrounds have increasingly acknowledged the undue burden from collateral consequences and have enacted key expungement and record sealing measures to provide second chances. In 2018, Pennsylvania became the first state in the nation to enact legislation that would automatically seal records for nonviolent offenses. In 2019, Utah followed suit with their own automated sealing law and Kentucky expanded the number of offenses eligible for expungement. Continuing this trend, Mississippi opened expungement opportunities for individuals convicted of first-time misdemeanor offenses and certain felony offenses, and New Mexico has authorized an expungement process for a wide-ranging list of convictions for adults. Most recently, Georgia enacted its "second chance" bill to provide expungement opportunities for countless Georgians.⁶

Congress now has the opportunity to join this growing movement to provide second chances with the introduction of this meaningful legislation. The Kenneth P. Thompson Begin Again Act is a crucial step to opening pathways for individuals seeking to turn their lives around. By modifying the existing law by expanding eligibility to individuals of all ages, this legislation offers a tailored approach to lowering recidivism rates, increasing public safety, and providing second chances so people can contribute to society at their greatest potential.

We are greatly encouraged by your bipartisan leadership in introducing this meaningful legislation, and we strongly support the swift passage of the Kenneth P. Thompson Begin Again Act. We hope Congress will consider this legislation in a timely manner, as countless people continue to struggle with the long-lasting impacts of a record.

Sincerely,

American Civil Liberties Union
Americans for Prosperity
Due Process Institute
FreedomWorks
Justice Action Network
JustLeadershipUSA
NAACP
National Association of Criminal Defense Lawyers
National Employment Law Project
Prison Fellowship
Right on Crime
Safer Foundation

⁵ U.S. Sentencing Comm'n, *The Effects of Aging on Recidivism Among Federal Offenders* 22 (Dec. 2017). https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf

⁶ Act of Jun. 28, 2018, Pa. Laws 402, No. 56. Expungement Act Amendments of 2019 Utah Laws ch. 448. Act of Mar. 26, 2019 Ky. Acts ch. 188. Criminal Justice Reform Act of 2019 Miss. Laws ch. 466. Criminal Record Expungement Act of 2019 N.M. Laws ch. 203. 2020 Ga. Laws 582, eff. 1/1/2021.