

# OFFICE OF THE PUBLIC DEFENDER

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## **TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:**

### **House Bill No. 8082**

### **ENTITLED, AN ACT RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS**

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **opposes** House Bill 8082, which would extend the expungement period for DUI offenses from five years to ten years. We understand that the purpose of this legislation is to comply with the new ten-year lookback for second offenses now contained in the statute, but would respectfully point out that there is a way to accomplish this without saddling reformed drivers with the misdemeanor record for five years more than any other misdemeanor.

Our solution is simple: rather than keep the DUI records open for five years longer than the ones for all other misdemeanors, we can allow law enforcement and the Attorney General's Office to access these records to ensure that new DUIs are charged appropriately as either a first or a second offense. This would allow those who have truly reformed to enjoy the benefits of expungement—a return to a clean record comes with a whole host of employment, housing, parenting, and reputational benefits—while ensuring that those who continue to offend are penalized accordingly. This is not a novel proposition; there are many situations when law enforcement can access expunged records. Section 12-1.3-4 (“Accessed to Expunged Records”) covers these situations; this section dictates that expunged records are available to courts for sentencing of subsequent offenses, those in charge of regulating the bar admission process in any state, and commissioners for elementary and secondary education. In fact, we submit that the statute would not even need to be amended, for it already permits access to “or that of any law enforcement agency when the nature and character of the offense with which an individual is to be charged would be affected by virtue of the person having been previously convicted of the same offense.” This seems to squarely cover the situation that H8082 is intending to cover; however, if the Committee does not believe this language is clear enough, then we submit that the exception could be made to specify DUI offenses.

For these reasons, we urge the committee to reconsider H8082 and consider adopting the less drastic proposal outlined above.

Sincerely,

/s/ Angela M. Yingling

Angela M. Yingling

Legislative Liaison

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