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Expungement Study Committee, Chairman  
Alternative Medicaid Financing Study, Chairman

January 16, 2014

To Whom It May Concern:

Upon further reflection, the members of the Senate Expungement Reform Study Committee have elected to clarify Recommendation 6 as set forth in the Final Report of the Senate Expungement Reform Study Committee dated December 31, 2013. Recommendation 6 of the Report is hereby deleted and replaced with the following:

The State of Georgia should amend the Georgia Open Records Act to exclude mugshot photos from the type of records that must be disclosed pursuant to a valid open records request unless and until a Court determines in a preliminary hearing that probable cause exists to believe that the suspect committed the offense(s) for which he or she was arrested. No access to, or disclosure of, mugshot photos should be made available to the public unless and until probable cause is determined by the appropriate Court.

Honorable Josh McKoon, Chair  
Senator, District 29

Honorable Hardie Davis  
Senator, District 22

Honorable Butch Miller  
Senator, District 49

Honorable Ronald Ramsey  
Senator, District 43

Honorable Jesse Stone \*  
Senator, District 23

**Senator Stone of the 23<sup>rd</sup> offered the following statement in concurrence with the Committee's letter dated January 16, 2014:**

I concur that Recommendation 6 should be deleted for the reasons expressed in my reservations incorporated in the initial report. I believe the Revised Recommendation 6 is an improvement because it increases public access over the initial recommendation but still seeks to protect individuals from scurrilous accusations by timing disclosures with a judicial determination of probable cause. It opens the issue for a public debate in which the competing public policies and protection of individual liberties can be properly balanced.



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## **FINAL REPORT OF THE SENATE EXPUNGEMENT REFORM STUDY COMMITTEE**

### **COMMITTEE MEMBERS:**

**Senator Josh McKoon, Chairperson**  
**District 29**

**Senator Hardie Davis**  
**District 22**

**Senator Butch Miller**  
**District 49**

**Senator Ronald Ramsey**  
**District 43**

**Senator Jesse Stone**  
**District 23**

**Prepared by the Senate Research Office**  
**December 31, 2013**

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### INTRODUCTION

The Senate Expungement Reform Study Committee (the "Committee") was created by Senate Resolution 247 during the 2013 Legislative Session. The Committee was charged with undertaking a study of the conditions, needs, issues, and problems related to the expungement of, and restriction of access to, criminal records in the State of Georgia.

Senator Josh McKoon of the 29<sup>th</sup> chaired the Committee which held four public hearings at the State Capitol in Atlanta. Committee hearings<sup>1</sup> were held on the following dates:

- September 24, 2013,
- October 16, 2013,
- November 18, 2013, and
- December 11, 2013.

The other Senators who served as members of the Committee were Senator Hardie Davis of the 22<sup>nd</sup>, Senator Butch Miller of the 49<sup>th</sup>, Senator Ronald Ramsey of the 43<sup>rd</sup>, and Senator Jesse Stone of the 23<sup>rd</sup>.

### BACKGROUND

SR 247, adopted unanimously during the 2013 Legislative Session, expressed the sense of the Senate that criminal accusations, charges, and convictions are life changing events in many circumstances and that a person's criminal history can negatively impact many areas of life, including a person's finances, career opportunities, domestic relations, and access to housing.

Two comprehensive bills were passed during the 2012 and 2013 Legislative Sessions that made substantial changes to the expungement and record restriction laws in Georgia. Among the reforms instituted by HB 1176 (2012) and HB 349 (2013) was a set of comprehensive changes to the expungement law in Georgia. First, eligibility for record restriction was expanded to include most non-convictions. Open arrests are now automatically restricted, which amounted to 1.8 million people. The time frames for these automatic restrictions are two years for a misdemeanor, four years for a felony, and seven years after a "bad" felony. The

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<sup>1</sup> A list of witnesses who testified at each of the public hearings and a brief summary of their testimony is set forth in Appendix A to this Report.

process is now generally more efficient, as expungement of records for arrests made after the July 1, 2013 effective date no longer require an application process. Applicable information is restricted when the information is entered into the Georgia Bureau of Investigation's Georgia Criminal Information Center (GCIC) database, which also saves the applicant the application fee. Expungement of records of arrests made prior to the effective date still involve a 150 day application process. Finally, all official records can be restricted, thus achieving comprehensive restriction.

SR 247 expressed the Senate's understanding that, even in light of recent criminal justice reforms in Georgia, the process of clearing one's record when he or she has been wrongfully accused of a crime or restricting access to records of convictions that have been properly expunged can be tedious, expensive, and prone to error. Based on these findings, the Committee was tasked with studying the process of expunging certain charges and convictions from a person's criminal record and for restricting access to such individual's criminal history to determine if further action by the General Assembly is warranted. This report summarizes the Committee's findings and proposes a series of recommendations to address areas of concern highlighted by the individuals that presented testimony before the Committee.

### **FINDINGS**

Based on the testimony presented, the Committee makes the following findings:

1. Omissions and inconsistencies are prevalent throughout the criminal history records maintained by key stakeholders in the State's criminal justice system, including those maintained by sheriffs' departments, court clerks, prosecuting authorities, and the Georgia Bureau of Investigation ("GBI").

Procedures for entering and updating information regarding an individual's criminal history, including updating records to reflect dispositions of charges are not standardized across the State. Witnesses testified to the Committee that even if information is maintained correctly and promptly updated by some agencies at the local level, the quality and accuracy of information contained in the GBI's Georgia Criminal Information Center ("GCIC") is impacted if information reported for each stage of a prosecution is inconsistent or incomplete.

Witnesses indicated to the Committee that for each criminal charge entered against a citizen of Georgia following a lawful arrest, the GCIC database must accurately reflect law enforcement arrest data, prosecutors' indictment and accusation data, and the court's data regarding disposition of such charge, or records will be rejected by the database. Court clerks are not currently empowered to provide arrest or indictment data to GCIC and clerks are not permitted to alter information provided by sheriffs' departments and prosecutors, as court clerks are not charging agencies. Thus, the responsibility falls jointly on law enforcement, prosecutors, and court clerks to accurately and timely report information under their respective control to GCIC.

2. Information technology systems utilized by key stakeholders in the State's criminal justice system, particularly at the local level, are inadequate to properly process, correct, and update criminal history information.

Numerous witnesses before the Committee testified to the lack of consistency in information systems utilized at the county level and the inability, in some cases, for county databases to interface with the GCIC database. In addition, some Georgia counties do not offer automated

access to criminal record information, relying instead on written records housed physically in the office of the county court clerk.

This gap in information technology severely hampers the ability of sheriffs, court clerks, prosecutors, and the GBI to interface and maintain complete criminal records that fully reflect the disposition of a criminal charge. This failure, in turn, increases the likelihood that inaccurate information will be accessed by law enforcement agencies and those performing criminal background checks.

3. The process for obtaining expungement or restriction of records for certain non-violent offenses should be simplified.

A number of other states have identified specific criminal offenses for which records will be restricted by operation of law after a period of good behavior following the offense. For instance, in Indiana, access to records of certain non-violent offenses is restricted after a set period, and judges have little or no discretion to deny expungement or restriction of records if statutory criteria are met.

4. The State of Georgia should take steps to encourage the hiring of individuals with criminal histories who have demonstrated good behavior since the time of their conviction.

The National Conference of State Legislatures has indicated that employment increases an ex-offender's opportunities to: (1) obtain housing and health care, (2) comply with court-ordered debts such as restitution and child support, and (3) support himself or herself without public assistance. However, persons who have served time in prison can generally expect to earn about 40 percent less in annual wages compared to people in similar circumstances who have not spent time in jail, according to a 2010 study by the Pew Center on the States. Ex-offenders who do not secure stable employment are much more likely to recidivate than their counterparts who find work.

Because of these difficulties, the State of Georgia should adopt measures that encourage employers to hire ex-offenders who can demonstrate rehabilitation. In addition, the State of Georgia should consider reforms to the use of criminal history information in the application processes for housing and employment.

5. Reporting of certain types of information by background check and criminal history providers can negatively impact an individual's ability to secure housing and employment.

Among the primary goals of record expungement and restriction are to permit individuals to correct errors in their criminal record or make a fresh start after conviction and demonstrated rehabilitation. These goals are not served when background check providers report information to employers that is inaccurate or that is subject to restriction.

Because of the negative impact that a background check can have on an individual, background check providers should be restricted from reporting certain types of information to potential employers and landlords, and background check providers should be held responsible when the content of their reports is inaccurate. Holding third-party background check providers responsible for the content of the reports they provide to employers and landlords will strengthen incentives to report only information that is accurate, complete, and not subject to restriction.

## RECOMMENDATIONS

Based on the foregoing findings, the Committee makes the following recommendations:

1. The State of Georgia should study the cost and feasibility of making a significant investment in the upgrade and standardization of the information technology systems that are utilized for the creation, processing, storage, dissemination, and restriction of criminal records in the State.

In addition to studying the cost and feasibility of investments in new software and infrastructure, such studies should focus on the costs of training employees at the local and State level on the use of any new systems that are implemented and whether additional staffing is necessary. The State should also study the feasibility of using add-on fees as part of the sentence for criminal convictions as a method of funding these upgrades.

2. The State of Georgia should identify certain criminal offenses for which records will be restricted by operation of law after a period of good behavior following the offense.

The list of offenses eligible for automatic restriction should include non-violent offenses, including minor drug offenses that did not involve violence, weapons possession, or possession of distribution quantities of controlled substances. Violent crimes, sex crimes, crimes involving major thefts, crimes against the public administration, organized crime and racketeering should not be eligible for automatic restriction, notwithstanding rehabilitation efforts made by the ex-offender.

Adopting the Indiana model, once the record of an offense becomes eligible for restriction, restriction should be granted without a court hearing unless the prosecutor objects.

Building on this model, the State of Georgia should adopt a system which requires GCIC to provide notice to the county prosecutor's office that handled the conviction at issue once the waiting period for restriction elapses. The prosecutor should be given the opportunity to show cause as to why the record of such conviction should not be restricted, and the convicted individual should be given an opportunity to respond to the prosecutor's assertions. If the prosecutor does not respond, or if the presiding judge determines that adequate cause has not been shown, the record of the conviction should be restricted.

This procedure, coupled with a standardized and automated system for updating an individual's criminal record to reflect restrictions, should dramatically simplify the process of securing restriction of records for certain convictions and records of charges that are dropped or modified. By eliminating requirements for hearings in many cases, this reform would also conserve judicial and prosecutorial resources that are currently devoted to expungement proceedings.

3. The State of Georgia should consider providing economic incentives to companies who hire ex-offenders who have successfully completed rehabilitation programs.

The State should study the impact of providing limitations of liability for suits for negligent hiring to employers who hire ex-offenders who have received certificates of rehabilitation from the Department of Corrections. Certificates of rehabilitation are currently issued by correctional institutions to individuals who have served jail sentences with good behavior or who have successfully completed non-prison rehabilitation programs. If an employer hires an applicant

who has received certification, the employer would have a defense to suits for negligent hiring based on the actions of that employee.

4. With limited exceptions, the State of Georgia should consider the adoption of restrictions on the use of questions in application for housing and employment relating to an applicant's criminal history.

Such restrictions should include:

First, employers and landlords should be limited to asking questions only about criminal convictions that have not been formally expunged or restricted. Applicants should be permitted to check "NO" if their records have been restricted or expunged.

Second, employers and landlords should be banned from asking about or considering arrests and charges that did not lead to convictions when making decisions concerning employment and housing.

These restrictions should not apply to employers who are screening applicants for positions of public trust; law enforcement; or health, elder, or child care.

5. With limited exceptions, the State of Georgia should adopt uniform standards for all State agencies and departments regarding the use of an applicant's criminal history to disqualify him or her from employment with the State.

Departments and agencies of the State that employ persons in positions of public trust; law enforcement; and health, elder, or child care, should be exempt from this rule and should be permitted to establish their own standards and rules for the use of criminal history information.

6. The State of Georgia should amend the Georgia Open Records Act to exclude information gathered in a suspect's initial booking following arrest, including mugshot photos, from the type of records that must be disclosed pursuant to a valid open records request.

Access to booking information and mugshots should be limited to use in the defense and prosecution of criminal offenses and by law enforcement agencies. This information should not be made available to the public.

7. The State of Georgia should create a private cause of action in favor of individuals whose criminal records information is obtained by third-party background check providers and inaccurately or unlawfully reported to potential employers or landlords. This would include disclosure of inaccurate records and disclosure of records that have been expunged or restricted. Successful plaintiffs should be permitted to recover attorneys' fees and court costs and should be permitted to recover punitive damages when the actions of the third-party provider are shown to be willful or grossly negligent.

If data that is reported by a third-party background check provider to a potential employer or landlord regarding an individual is inaccurate or does not reflect the legally mandated restrictions on such person's record, the adversely effected individual will have a private cause of action for damages against the background check provider. The availability of this cause of action will incentivize background check providers to verify the accuracy and completeness of the reports they provide to their clients.



**Concurring Statement by Senator Stone of the 23<sup>rd</sup>**

Senator Stone of the 23<sup>rd</sup> offered the following additional comments in concurrence:

I concur with most of the recommendations of the Study Committee Report. However, I think that the State should proceed cautiously. We need to absorb the significant changes in record restriction brought about in recent years through Criminal Justice Reform. Reform has already exposed systemic problems in reporting dispositions of criminal cases. The main participants in the process, law enforcement agencies, prosecutors, and clerks, are actively working on better coordination, and may be able to implement improvements without legislation. Experience under Reform may indicate areas that do require legislative action.

I believe that employers and private reporting agencies should be encouraged to comply with record restriction. Punitive mandates should not be imposed if they can be avoided. Voluntary compliance can be incentivized by shielding those parties who rely on GCIC for criminal record reporting from liability related to negligent hiring. Reporting agencies can be directed to GCIC by allowing Clerks of Court and Sheriffs to refer open records requests to the GCIC. No changes we make can result in full expungement or unringing the bell, and there are significant policy issues related to access to information and public safety.

I agree with the findings that a contributor to recidivism is unemployment and that an obstacle to finding employment is having a criminal record. We should work with incremental changes to the system and continue to monitor the results so that policy changes are evidence based. We need to build a consensus around how to increase accuracy of reporting and how to improve the system for all stakeholders.

## **Appendix A**

### **Summary of Witnesses and Testimony**

#### **Committee Meeting on September 24, 2013**

**The Honorable Kathlene Gosselin, Superior Court Judge  
Northeastern Judicial Circuit**

Judge Gosselin testified as to her desire to see graduates of a certified accountability court have the opportunity to pursue expungement or restriction as soon as practicable, rather than being forced to wait the full term prescribed by current statutes. She indicated her belief that this reform would help graduates move into employment and housing quicker, giving the individual a better opportunity to make a fresh start.

**Doug Ammar, Director  
Marissa McCall-Dodson, Staff Attorney  
Georgia Justice Project**

Mr. Ammar testified that prior to recent criminal justice reforms, Georgia had one of the worst expungement laws in the country. He indicated his view that the system was plagued by limited eligibility, missing records of disposition, excessive costs and delays, and lack of assurances that access to expunged records would actually be restricted. HB 1176 and HB 349, in his opinion, took major steps to correct these issues, but Mr. Ammar indicated that areas for additional improvement include procedures for "accountability court" participants, youthful offenders, and those subject to felony arrest with an unrelated misdemeanor conviction. Mr. Ammar also indicated that the use of questions regarding criminal history in employment applications is an area that needs to be addressed, as a growing number of states either restrict these questions or permit applicants to answer "NO" if certain charges or convictions have been expunged.

**John T. Smith, Director of Legislative Affairs  
Jeffrey Coleman, Staff Attorney  
Georgia Department of Juvenile Justice**

Mr. Smith and Mr. Coleman provided the Committee with background information on the handling of juvenile court records. They indicated that the handling of expungement requests for juveniles is different than that for adults because of requirements relating to confidentiality and privilege. Because some juvenile records are sealed, data on these records is often not transmitted to GCIC by the juvenile courts. However, some juvenile court records can be accessed locally, particularly if proceedings relating to the charges reflected in such records were open.

**Randee Waldman, Director  
Just Georgia-Barton Juvenile Defender Clinic**

Mr. Waldman testified that there is a misconception in the public that all juvenile records are sealed at majority age and that all juvenile records remain confidential indefinitely. Mr. Waldman believes that the public should be restricted from reviewing juvenile court records, even if the proceedings relating to offenses reflected in such records were open to the public. He also believes that Georgia law should require juvenile courts to seal records upon the

offender reaching a certain age (i.e., age 19) or after a certain time following disposition of an offense by the juvenile court. He testified that a number of states, including Virginia, follow this approach.

**Joe Vignati, Administrator, Justice Division  
Hayley Howell, Government Affairs Liaison  
Governor's Office of Children and Families**

Mr. Vignati and Ms. Howell emphasized to the Committee that youth are fundamentally different from adults, both in their level of responsibility and their potential for rehabilitation. They indicated that the juvenile court program and other state programs targeted at juvenile offenders focus on pre-trial diversion and fostering the ability of juvenile offenders to re-enter school and the job market. They expressed the view that record restriction greatly aids re-entry, as it allows juveniles to make a fresh start following early indiscretions.

**Chuck Spahos, Executive Director  
Prosecuting Attorney's Council of Georgia**

Mr. Spahos testified that a fundamental problem with Georgia criminal justice records is that dispositions are not being entered into GCIC. He believes this is a function that should be assigned to the court clerks, who should be required to enter the final disposition and the date of such disposition in GCIC. He indicated that failure to properly enter dispositions results in convicted felons serving as trial jurors and on grand juries despite the fact that Georgia law prohibits both. Mr. Spahos also believes prosecutors should be required to notify the court clerk in writing when a decision to dismiss or otherwise not prosecute has been made. Mr. Spahos believes that after formal charging in a case, if the charge is dismissed, GCIC should automatically restrict access to the records of the charge after five years, as such records are eligible for restriction by law after that time. Currently, the person charged with the offense must request restriction once the specified time period elapses.

**John Hamilton, Constituent**

Mr. Hamilton described his daughter's experience in trying to obtain an expungement of an arrest from her record, as it was later determined that the arrest was made on the basis of a mistaken identification. Mr. Hamilton's daughter found the procedure to be overly complicated and expensive, particularly given that she was never charged or convicted of an offense.

**Thomas Weaver, Constituent**

Mr. Weaver is in the process of obtaining expungement of certain offenses and charges from his records. He recounted this experience for the Committee and also expressed his desire to see expungement be made available for convictions under statutes that were later repealed.

#### **Committee Meeting on October 16, 2013**

**Dawn Diedrich, Director of Privacy and Compliance  
Terry Gibbons, Deputy Director  
Georgia Crime Information Center**

Ms. Diedrich indicated that GCIC does not create a record in its database until a print copy of the underlying record is received. Restricted and expunged records are still available to law

enforcement officials, but access to those records is blocked to others attempting to access GCIC. Ms. Diedrich and Ms. Gibbons emphasized that there is a great deal of public misunderstanding regarding the effect of expungement, given that expunged records do not "go away" but remain available to law enforcement officials and the courts.

**Mike Holiman, Executive Director  
Council of Superior Court Clerks of Georgia**

Mr. Holiman indicated that as many as thirty percent (30%) of cases docketed do not reflect a final disposition. In addition, different circuits utilize different systems and processes, further hindering the process of standardizing information that is reported to GCIC. Mr. Holiman indicated that if records are not aligned so as to accurately reflect the arrest, charge, and disposition for an offense, GCIC will reject such records. Mr. Holiman also indicated that the process for correcting erroneous records is largely a cooperative effort between the prosecutor and the court clerk. When the clerk and the prosecutor are unable to coordinate efforts, the process of correcting records often falls through the cracks. There is not currently a standardized process for correcting erroneous records at the local level. Mr. Holiman testified that Fayette County employs a reconciliation form for requesting corrections, but a patchwork of other solutions is used as well. Mr. Holiman indicated his view that a larger investment in data sharing and cooperation would aid GCIC in maintaining a more accurate database, particularly given the need to align data compiled and reported by law enforcement, prosecutors, and courts.

**Chuck Spahos, Executive Director  
Prosecuting Attorney's Council of Georgia**

Mr. Spahos indicated that prosecutors are working to move all prosecuting authorities in the state to an electronic data exchange so that criminal history information can be shared more easily. Despite moves to electronic record keeping, however, Mr. Spahos indicated that in cases where formal charges are dismissed, the prosecutor should be required to communicate that decision in writing.

**Terry Norris, Executive Director  
Georgia Sheriffs' Association**

Mr. Norris indicated that the responsibility to send data on criminal charges falls to the arresting agency. He indicated that private parties collect arrest data every Monday from local sheriffs' offices. Mr. Norris indicated that he did not favor restrictions on records as he sees a need for law enforcement, the media, and the public to have access to criminal history records.

**Committee Meeting on November 18, 2013**

**Terry Gibbons, Deputy Director  
Georgia Crime Information Center**

Ms. Gibbons indicated the GCIC data is accessed by two methods: name-based checks and fingerprint checks. All national crime records are received from the FBI, not from sister states directly. GCIC processes roughly 400,000 record checks per year, ninety percent (90%) of which are for pre-employment screenings being conducted by state and local agencies in Georgia.

**Robert Finlayson, Inspector General**  
**Ann Burris, Director of Human Resources**  
**Georgia Department of Community Health**

Mr. Finlayson testified that DCH is required by state law to perform fingerprint checks for all individuals who apply to be owners of healthcare facilities and to serve as directors and administrators of such facilities. Ms. Burris indicated that, prior to the passage of HB1176, roughly 31% of all records reviewed did not disclose the disposition of the charges listed. This problem has improved significantly since HB 1176 went into effect in July 2013. Mr. Finlayson and Ms. Burris indicated that DCH checks are generally limited to the seven-year period prior to the date of the check and that older charges are generally disregarded.

**Denise Matthews, Special Agent in Charge**  
**Background Investigations Unit, Georgia Department of Human Services**

Ms. Matthews indicated that, as of July 1, 2013, DHS no longer has access to arrest records. She indicated that DHS would prefer to receive a full criminal history on each applicant, including whether such applicant has ever been arrested. This is vital to protecting the so-called "vulnerable populations" served by DHS, including children and the elderly.

**David LeNoir, Incident Management & Investigations Criminal Records Section Manager**  
**Georgia Department of Behavioral Health and Developmental Disabilities**

According to Mr. LeNoir, all applicants for employment with DBHDD are initially separated into baskets referred to as "Records" and "No Records." No Record applicants are immediately approved and processed in the DBHDD database. Applicants who have criminal histories are then further separated into "Eligible," "Ineligible," and "Needs Further Evaluation" categories. Applicants are deemed to need further evaluation if criminal charges lack a disposition for charges that would disqualify the applicant from employment, if convicted. Mr. LeNoir indicated that records restriction, including restriction of arrest records, impairs the ability of DBHDD to compile complete records about applicants.

**Chuck Harper, Legislative Affairs Director**  
**Georgia Secretary of State**

Mr. Harper indicated that a large number of professions and practices require background checks before state business licenses will be issued, including nurses, private security agents, massage therapists, and used motor vehicle dealers. Particularly where licensed individuals will have direct access to patients or other vulnerable populations (namely, children and the elderly), there are particular concerns with applicants who have records of drug offenses, sex crimes, and patterns of violence or anger. Mr. Harper indicated that any history of theft or dishonesty is also a cause for significant concern.

**Ira Sudman, Agency Attorney**  
**Ray Higgins, Deputy Commissioner**  
**Georgia Department of Early Childcare and Learning**

Mr. Higgins indicated that Georgia law currently requires DECAL to disqualify applicants with convictions and certain types of arrests from employment. Mr. Higgins further indicated that if

arrests are not reported or are sealed from DECAL inspection, DECAL could inadvertently authorize an applicant to work in a childcare facility even though that person has been arrested. This creates a significant child safety issue.

**Michael Mitchell, Legislative and Governmental Affairs Liaison  
Georgia Department of Driver Services**

Mr. Mitchell testified that DDS utilizes criminal records information to conduct pre-employment screenings for DDS employees, for program owners and instructors of industries regulated by DDS (including DUI schools, drivers' education programs, and defensive driving clinics), for chauffeurs, and for criminal investigations for license fraud. Mr. Mitchell indicated that full access to records, including arrest records, is also helpful because DDS aids individuals in correcting records that contain inaccuracies or which do not reflect a positive disposition.

**R. Keith Wages, Director  
Office of EMS and Trauma, Georgia Department of Public Health**

Mr. Wages indicated that his office issues licenses for EMTs and AEMTs. His office has conducted GCIC searches on applicants since January 2012, and he indicated that thirty to forty percent of applicants for these positions have some type of criminal history. DPH rules, however, only allow DPH to deny licensure on the basis of convictions. DPH focuses its review on any convictions for violent crimes, theft, dishonesty, or abuse given the considerable access that EMT and AEMT licensees have to individual's homes and the likelihood that they will treat patients in traumatic situations without supervision.

**Committee Meeting on December 11, 2013**

**Tammy Cohen, President and Chair  
InfoMart**

Ms. Cohen indicated to the Committee that InfoMart has found that county court record searches are the most accurate source of information about the final disposition of criminal charges, including whether a charge moved to conviction and whether convictions have been expunged. Ms. Cohen indicated that county-level searches are usually the only sources that meet the requirements of the federal Fair Credit Reporting Act because the county records are most likely to contain disposition information. Ms. Cohen indicated that despite certain shortcomings, GCIC is one of the better statewide repositories of criminal records, but that county-level data remains more reliable. Ms. Cohen indicated that despite the presence of county and state databases, the use of privately maintained databases is prevalent and that many employment decisions are made on the basis of information retrieved from these databases. Ms. Cohen indicated that the process for disputing information contained in reports InfoMart provides to potential employers would be greatly aided by the presence of a dedicated dispute contact at GCIC who processes such requests.

**Ben Peacock, President  
Lighthouse Information Services, LLC**

Mr. Peacock highlighted the various systems used by county courthouses in Georgia to record and maintain criminal history records. Mr. Peacock indicated that more than 30 Georgia counties have no access terminal for criminal records and rely instead on handwritten docket

books. In addition, even counties that do maintain electronic records are not consistent in the data that is uploaded and available, and electronic systems between counties and the state level use different search platforms and processing methods. Mr. Peacock echoed Ms. Cohen's statements regarding the accuracy of county-level searches and indicated that state and federal databases should be used only as a supplement to county-level resources, due to the high volume of records awaiting correction and the consistent processing backlog.

**Janice Walters-Taylor, Owner  
Background Screening and Security Solutions, LLC**

In addition to highlighting current state and federal laws that impact the process of performing a background check, Ms. Walters-Taylor expressed her desire to see that certain types of criminal information remain available to the public. Her firm specializes in performing pre-employment screenings for home healthcare companies and non-profit organizations, two sectors that commonly serve vulnerable or disadvantaged populations, such as children, the elderly, or the infirm. She contends that excessive record restriction, including limiting access to records of felony convictions, would severely hamper the pre-employment screening process for these types of positions and potentially lead to poor employment decisions.

**John Chatz, Justice and Public Safety Practice Lead  
State, Local, & Education Division, HP Enterprise Services**

Mr. Chatz highlighted a number of challenges facing corrections and justice agencies, including decreasing budgets, shrinking staff levels, aging IT infrastructures, and increased pressures for transparency and responsiveness. Highlighting specifically IT concerns, Mr. Chatz testified that information contained in various databases at the state and local level may not be accurate, consistent, and complete, and that the various systems that are used may not interface with each other seamlessly. Mr. Chatz recommends that the State move to an across-the-board process of automation at all levels so that data from sheriffs, prosecutors, clerks, and the State can be incorporated into a single system with consistent processes and protocols.

**W. Thomas Worthy  
Deputy Executive Counsel, Office of the Governor  
Co-Chair, Special Council on Criminal Justice Reform**

Mr. Worthy indicated that the Special Council was focusing its efforts on breaking down the consequences of convictions for crimes that are not subject to expungement or restriction, including the impact those convictions will have on an offender's ability to secure housing and employment. Mr. Worthy indicated that the Special Council was unlikely to take major steps to establish new charges for which expungement will be available but has instead focused on ensuring that publicly available records accurately and timely reflect the final disposition of criminal charges against an individual.

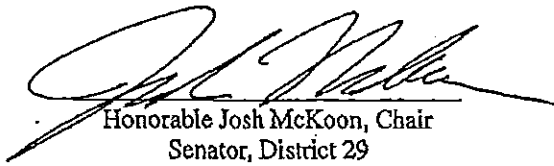
**Marissa McCall-Dodson, Staff Attorney  
Georgia Justice Project**

Ms. McCall-Dodson highlighted the growth of the private background check industry and the prevalence of background check utilization in the years following the September 11 terrorist attacks. She indicated that records of case dispositions are not updated consistently and that records which have been sealed or expunged often remain available to the public at the county courthouse or the local jail and the expungement of such records is not consistently reported to

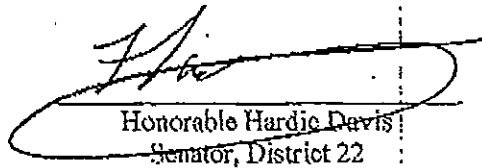
GCIC. Ms. McCall-Dodson recommended that background search companies be required to perform physical, in-person verification of records at the county level, rather than accessing such records electronically.




FINAL REPORT OF THE SENATE  
EXPUNGEMENT REFORM STUDY COMMITTEE



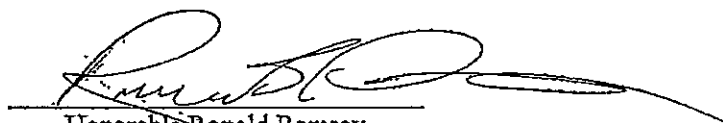
Honorable Josh McKoon, Chair  
Senator, District 29




Honorable Hardie Davis  
Senator, District 22



Honorable Butch Miller  
Senator, District 49



Honorable Ronald Ramsey  
Senator, District 43



Honorable Jesse Stone  
Senator, District 23