



Legislative Testimony
765 Asylum Avenue, 2nd Floor
Hartford, CT 06105
860-523-9146
www.acluct.org

**Written Testimony Supporting Senate Bill 138, An Act Concerning the
Waiver of Certain Criminal History Records Check Fees for an Indigent
Person Seeking a Pardon**

Senator Gaston, Representative Boyd, Ranking Members Cicarella and Howard, and distinguished members of the Public Safety Committee:

My name is Jess Zaccagnino, and I am the policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am writing to testify in support of Senate Bill 138, An Act Concerning the Waiver of Certain Criminal History Records Check Fees for an Indigent Person Seeking a Pardon.

The ACLU-CT believes in a society where all people, including those who have been convicted or accused of a crime, have equal opportunity to contribute to society and build successful and fulfilling lives. People involved in our criminal legal system who finish their sentences have paid their debt to society. They deserve to live their lives in Connecticut's communities without barriers to being happy, productive, law-abiding residents. People with criminal histories may be more likely to encounter background checks, and therefore more likely to feel those negative effects on their credit scores. Connecticut should guarantee that no person will have their credit score suffer when they go through a background check for applying to housing, jobs, or school.

Instead of enabling people living with records, Connecticut law makes life much harder for them. Of the over 550 barriers to full civic participation that are written

into our state's law,¹ the large majority are related to employment. These harmful employment effects are not distributed equally across society. Racial disparities in Connecticut's criminal legal system² are also replicated when people return home from incarceration. Because of systemic racism, Black and Latino men are disproportionately incarcerated.³ This means they are likewise disproportionately rejected when they return to the community and seek to build a life worth living. Poor chances of employment or stable housing likely have a resulting outsized impact on Black and brown people.

The widespread use of criminal background checks in conjunction with a rise in the number of people with a criminal record—about 1 in 3 U.S. adults⁴—contributes greatly to racial inequality and poverty in the United States. Nine out of 10 employers, 4 out of 5 landlords, and 3 out of 5 colleges and universities use background checks to eliminate candidates with criminal histories.⁵ The stigma of a criminal record disproportionately harms people of color. One study found that white men who indicated a criminal record on their job applications still received more callbacks when compared to Black men *without* records (Black men with criminal records received two-thirds fewer callbacks).⁶

Indeed, the evidence shows that when people are given a real, fair chance at putting their skills and talents to use after conviction, they can and will succeed. One of the

¹ National Inventory of Collateral Consequences of Conviction, *available at* https://niccc.csgjusticecenter.org/database/results/?jurisdiction=260&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1; see also Kelan Lyons, *Council Begins Study of Discrimination Against People with Criminal Records*, CT MIRROR (Aug. 22, 2019), *available at* <https://ctmirror.org/2019/08/22/council-begins-study-of-discrimination-against-people-with-criminal-records/>.

² U.S. Commission on Civil Rights, *Briefing on Racial Disparities and Prosecutorial Practices in the Connecticut Criminal Justice System* (Apr. 2019), *available at* <https://www.usccr.gov/press/2019/03-25-Flyer-Criminal-Justice.pdf>.

³ According to the Sentencing Project, Connecticut is the fifth-worst state for Black men, with 1 in 19 incarcerated, making them 9.4 times likelier to be incarcerated than white men. Latino men in Connecticut are 3.9 times more likely to be incarcerated than white men. Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, The Sentencing Project (June 14, 2016), *available at* <https://www.sentencingproject.org/publications/color-of-justice-racial-andethnic-disparity-in-state-prisons/>.

⁴ Rebecca Vallas & Sharon Dietrich, *One Strike and You're Out: Removing Barriers to Economic Security for People with Criminal Records*, CTR AM. PROGRESS (2014), *available at* <https://americanprogress.org/issues/poverty/reports/2014/12/02/102308/one-strike-and-youre-out/>.

⁵ *Id.*

⁶ Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOC. 937 (2003), *available at* https://scholar.harvard.edu/files/pager/files/pager_ajs.pdf.

nation's largest employers, the United States military, has found that enlistees with felony records are more likely to be promoted to sergeant than those with no conviction history, even controlling for other factors.⁷ Another survey found that 82 percent of managers believe that workers with criminal records are equally high or higher quality hires than people without criminal records.⁸ A recent research study found that most criminal offenses have little to no impact on housing outcomes.⁹ When New York City piloted a program allowing people with felony convictions to move back in with their families in public housing, not a single participant was convicted of a new crime or went back to prison.¹⁰

The ACLU-CT opposes legislation that contributes to needless background checks or that erects unnecessary barriers for people living with a record. Conversely, we support legislation that reduces the hurdles of background checks and helps people apply for and receive a pardon. The pardon process is difficult to navigate,¹¹ often adversarial, costly, and, according to many people living with records, debasing. Since a pardon is often based on immutable details, like the characteristics of the offense, rather than the changes made during and after incarceration, this process that ought to provide a light at the end of the tunnel sometimes feels like an oncoming train instead. Nor can people count on getting a pardon. In the period from 2016-2020, 3 out of every 5 pardon applications in Connecticut were denied as ineligible or insufficient.¹² Senate Bill 138 begins to address one of the barriers to obtaining a pardon: costs. This bill would prevent independent contractors from charging a convenience fee for fingerprinting and demographic information when processing a

⁷ Jennifer Hicke Lundquist, Devah Pager, & Eiko Strader, *Does a Criminal Past Predict Worker Performance? Evidence from One of America's Largest Employers*, 96 SOC. FORCES 1039 (Jan. 12, 2018), available at <https://academic.oup.com/sf/article/96/3/1039/4802355>.

⁸ *Workers with Criminal Records*, SOC. HUM. RES. MGMT & CHARLES KOCH INST. (2018), available at https://www.prisonpolicy.org/scans/cki_shrm/report.pdf.

⁹ Cael Warren, *Success in Housing: How Much Does Criminal Background Matter?*, WILDER RES. (Jan. 2019), available at https://www.wilder.org/sites/default/files/imports/AEON_HousingSuccess_CriminalBackground_Report_1-19.pdf.

¹⁰ Casey Tolan, *NYCHA Stops Discriminating against New Yorkers with Criminal Records*, VILLAGE VOICE (Dec. 13, 2016), available at <https://www.villagevoice.com/2016/12/13/nycha-stops-discriminating-against-new-yorkers-with-criminal-records/>.

¹¹ See, e.g., *Pardon FAQs*, CONN. BD. PARDONS & PAROLES, available at <https://portal.ct.gov/BOPP/Pardon-Division/Pardon/Pardon-FAQs>.

¹² See *Board of Pardons and Parole Statistical Information*, CONN. BD. PARDONS & PAROLES, available at <https://portal.ct.gov/BOPP/Research-and-Development-Division/Statistics/Historical>.

criminal records history check when applying for a pardon when an applicant is found to be indigent. The ACLU-CT recommends this Committee go even further and prohibit third-party services from charging anyone who is applying for a pardon a convenience fee. As such, the ACLU-CT supports Senate Bill 138, and urges this Committee to do the same.