



## The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

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September 13, 2024

The Honorable Scott Martin  
Chair, Senate Appropriations Committee  
Senate Box 203013  
Harrisburg, PA 17120-3013  
Room: 281 Main Capitol

### **RE: Support for Senate Bill (“SB”) 170 (Standardizing the Juvenile Expungement Process)**

Dear Chairman Martin,

On behalf of the Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness (the “Interbranch Commission”), we write to convey our support for SB 170. This legislation would establish a standardized, uniform expungement process for juveniles in Pennsylvania. Senator Lisa Baker is the Prime Sponsor of SB 170. The bill received its first consideration on March 6, 2023, before being referred to the Senate Appropriations Committee. Since that referral, the Committee has neither convened a hearing nor reported on the bill. We respectfully urge the Appropriations Committee to consider this legislation and take the appropriate measures to move it through Committee, facilitating its passage.

#### **A. Background**

The Interbranch Commission was established in 2005 by the three branches of Pennsylvania government. The purpose of the Interbranch Commission is to promote equal application of the law. We fulfill that purpose by: (1) implementing the findings and recommendations of the Final Report published by the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System in 2003 (the “Final Report”);<sup>1</sup> (2) investigating new initiatives that may not have been addressed by the Supreme Court Committee; (3) suggesting ways to reduce bias in the legal profession and in all three branches of government; and (4) increasing public confidence in Pennsylvania government.

The Final Report covers fourteen individual topics, including, in Chapter 13, the topic of Racial, Ethnic, and Gender Bias in the Juvenile Justice System. In this chapter, the Supreme Court Committee identified as among its primary concerns the overrepresentation of people of color within this system,

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<sup>1</sup> See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf>.

as well as “the growth in the involvement of female juvenile offenders.”<sup>2</sup> The Committee noted that disparities are greatest for African American youth, and that while such overrepresentation occurs in confinement, it is also “clear that the problem affects the entire juvenile justice system, from arrest through detention, diversion, or referral, adjudication, disposition, and prosecution as an adult.”<sup>3</sup>

Since the Final Report’s publication, the Interbranch Commission has worked to improve access to justice for youth and to reduce bias within the juvenile justice system. In 2016, the Commission surveyed Pennsylvania’s judicial districts to learn about the policies and procedures they have implemented to expunge juvenile records. Based on survey results, the Commission produced a model record expungement procedure designed to reduce barriers for juveniles seeking to get their lives back on track following involvement with the system. The requirements contained in the model procedures we produced are mirrored substantially in the provisions of SB 170.

Following the publication in 2021 of the Juvenile Justice Task Force Report,<sup>4</sup> the Interbranch Commission has also advocated for legislative and other reforms responsive to the Report’s findings. The bipartisan Task Force was comprised of experts and advocates from across the state, including several current and former Interbranch Commission members.<sup>5</sup> As part of its review of the juvenile justice system in Pennsylvania, the Task Force reported myriad findings, key among them were the following:

1. Most young people become involved in the juvenile justice system for low-level behavior, with at least two-thirds of youth entering the system for misdemeanors or contempt from Magisterial District Courts for failure to pay fines.
2. Outcomes for youth show large disparities by race and geography, even for identical charges.
3. Most cases eligible for expungement are not expunged, including 76 percent of cases that were dismissed or withdrawn and 96 percent of eligible adjudicated cases.<sup>6</sup>

Based on these findings, the Task Force issued thirty-five evidence-based policy recommendations, one of which urges the creation of “a standardized statewide expungement process.”<sup>7</sup>

## **B. Support for SB 170 (Printer’s No. 160)**

Introduced to effectuate the Task Force’s recommendation, SB 170 would establish expungement eligibility for juveniles in Pennsylvania as follows:

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<sup>2</sup> See Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System 1, 530 (2003), available at <https://pa-interbranchcommission.com/wp-content/uploads/2022/01/FinalReport.pdf>.

<sup>3</sup> *Id.* at 532.

<sup>4</sup> The Pa. Juv. Just. Task Force Report and Recommendations (June 2021) [hereinafter *Task Force Report*], [https://www.pacourts.us/Storage/media/pdfs/20210622/152647-pajuvenilejusticetaskforcereportandrecommendations\\_final.pdf](https://www.pacourts.us/Storage/media/pdfs/20210622/152647-pajuvenilejusticetaskforcereportandrecommendations_final.pdf).

<sup>5</sup> *Task Force Report supra* note 4, at 7.

<sup>6</sup> Pa. Juvenile Just. Task Force Report: Executive Summary 1, 2 (June 2021) [hereinafter *Task Force Executive Summary*], [https://www.pacourts.us/Storage/media/pdfs/20210622/152646-pajuvenilejusticetaskforcereportexecutivesummary\\_final.pdf](https://www.pacourts.us/Storage/media/pdfs/20210622/152646-pajuvenilejusticetaskforcereportexecutivesummary_final.pdf).

<sup>7</sup> *Task Force Report supra* note 4, at 39.

1. *Immediately* after the written allegation against the juvenile is not approved for prosecution or when the petition against the juvenile is dismissed by the court;
2. *Six months* following the juvenile’s successful completion of informal adjustment, provided that no additional proceeding is pending against the juvenile;
3. *Six months* following the final discharge of the juvenile from supervision under a consent decree, provided that no additional proceeding is pending against the juvenile;
4. *Two years* following the final discharge of a child from commitment, placement, probation, or any other disposition pursuant to an adjudication of delinquency for most misdemeanors, provided that the juvenile has not since been convicted of a separate charge and that no proceeding is pending against him or her; and
5. *Five years* following the final discharge of a child from any disposition pursuant to an adjudication of delinquency for more serious offenses, such as felonies and misdemeanors involving indecent sexual assault or firearms, provided that the juvenile has not since been convicted of a separate charge and that no proceeding is pending against him or her.

These criteria track the statutory language recommended by the Juvenile Justice Task Force; that is, the Task Force proposes eligibility requirements consistent with all five of the criteria above.<sup>8</sup> Of these five criteria, it is important to note that SB 170 would reduce the period of time, from five years to two years, that a juvenile adjudicated delinquent for most misdemeanors must wait prior to being eligible for expungement. In recommending this same change in its Report, the Task Force notes that at present, “[y]outh must wait five years – often well into their 20s – to be[come] eligible.”<sup>9</sup> As youth carry a record of involvement with the juvenile justice system into adulthood, a range of collateral consequences follow them. Having a record can affect “access to education, employment prospects, occupational licensing, military enlistment, family housing, ability to receive a driver’s license, public benefits, and credit, among other potential consequences.”<sup>10</sup>

In its Report, the Juvenile Justice Task Force also found that “[t]he most serious offense for at least two-thirds of youth entering the juvenile justice system is either a misdemeanor or contempt from Magisterial District Court for failing to pay a fine – a breakdown largely unchanged since 2009.”<sup>11</sup> By reducing the requisite time period from five years to two years for most misdemeanors, SB 170 reduces the impact of the collateral consequences that attach for a majority of youth in our Commonwealth. This legislative change would permit many of Pennsylvania’s youth to get their lives back on track, ensuring they are not held back by records of juvenile justice system involvement.

As mentioned previously, the Task Force Report also noted that “most cases eligible for expungement are not expunged, including . . . 96 percent of eligible adjudicated cases.”<sup>12</sup> SB 170 sets forth requirements designed to better ensure that the expungement process is initiated for those who are eligible. Specifically, Section 5 of the bill empowers the Pennsylvania Commission on Crime and Delinquency (“PCCD”) to develop and implement the case management technology required to both alert probation officers that an individual’s case is eligible and to better ensure that courts are notified

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 23.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 12.

<sup>12</sup> *Id.* at 23.

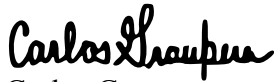
of the need to initiate the expungement process. By establishing mechanisms to ensure that juveniles' cases do not slip through the cracks, the bill improves access to justice for all Pennsylvanians. Moreover, by requiring the resolution of expungement cases in a timely manner, the bill eliminates the need to expend court resources downstream, thus promoting judicial economy and efficiency.

### C. Conclusion

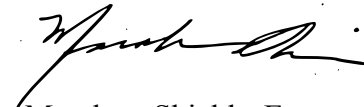
For these reasons, we urge you to take the appropriate measures to facilitate the passage of SB 170. By passing this bill, the General Assembly will grant individuals who constitute the future of our Commonwealth the opportunity to successfully transition into adulthood, uninhibited by the burdensome consequences that otherwise attach when their records are not expunged in accordance with evidence-based best practices.

If you have any questions concerning this matter, we would be happy to discuss them with you at your convenience.

Respectfully,



Carlos Graupera  
Chair, Criminal Justice Committee



Maraleen Shields, Esq.  
Executive Director



Brendan Bertig, Esq.  
Staff Attorney

cc: The Hon. Vincent J. Hughes, Minority Chair, Senate Appropriations Committee  
The Hon. Lisa Baker, Prime Sponsor, SB 170  
Members of the Senate Appropriations Committee  
Pennsylvania Interbranch Commission Members  
Interbranch Commission's Criminal Justice Committee