



444 North Capitol Street NW, Suite 200

Washington, DC 20001

www.justiceactionnetwork.org

noah@justiceactionnetwork.org

(202)805-0994

Chair Fahey, Vice-Chair Helfrich, Vice-Chair Kropf, and members of the committee,

My name is Noah Bein, and I am a state policy manager for the Justice Action Network (JAN). JAN works in states across the country to support lawmakers enacting bipartisan, data-driven justice reform laws that make communities safer. I am writing in support of House Bill 4097. I outline below how this bill fits into national trends and why it is supported by research. However, I would like to first address the -6 amendment that Rep. Tran will introduce at today's hearing. JAN supports this amendment because it is the outcome of Rep. Tran's tenacious, good faith negotiations to compromise with and gain the support of the Oregon District Attorneys Association (ODAA) and the Office of Judicial Administration (which is now neutral on the bill). We hope that with the support of Oregon stakeholders – including not just prosecutors but also victim and survivor groups – this important legislation will be enacted this year. Its passage will begin to alleviate the employment and earnings penalties Oregon statute imposes on citizens who are denied expungement relief solely because they cannot pay outstanding fines and fees.

With any negotiation, everybody loses a little. As such, JAN has reservations about the provisions in this amendment that increase waiting periods to three years for people hoping to expunge records for person offenses of which they are legally innocent (i.e. "non-convictions"). This change – granted in the amendment as a condition of their support for the bill – makes Oregon an outlier when it comes to expungement of non-convictions. Below is a sampling of waiting periods that states require for various non-convictions.¹ States as diverse as Arkansas and California allow for *immediate sealing* of non-conviction records. A three-year waiting period in Oregon would be longer than what Alabama requires for non-convictions of violent felonies. Moreover, states like Utah, Colorado, and California automatically expunge these records without requiring the defendant to take any additional steps. In contrast, Oregonians will have to wait three years before they can even file a request to have the records sealed for a charge of which they are legally innocent.

State	Waiting Period for Non-Convictions	Automated?
Oregon (under proposed -6 amendment to HB 4097)	Three years for non-conviction person offenses, one year for non-person offenses (under -6 amendment to HB 4097)	No – requires a petition be filed and granted
Alabama	Two years for any felony where the person was acquitted (Ala. Code § 15-27-1 for misdemeanors; § 15-27-2 for felonies)	No – requires a petition to be filed and granted

Arkansas	One year for arrest records, zero years (i.e. at disposition) for dismissals or acquittals (§ 16-90-1409, 1410)	No – requires a petition to be filed and granted
California	All non-convictions are automatically sealed (Assembly Bill No. 145, 2021-22 session)	Yes – automated sealing without a petition
Colorado	Automatic sealing of any dismissals, acquittals, or completed diversions/deferred judgements (§ 24-72-705(1)(a))	Yes – automated sealed without a petition
Utah	Automatic expungement of any acquittals on all charges or dismissals with prejudice (H.B. 431 Expungement Act Amendments, 2019 session)	Yes – automated sealing without a petition

In supporting House Bill 4097, I would like to briefly highlight how this bill fits into national trends and why it is supported by research.

Research shows criminal records reduce earnings and increase unemployment—but expungement eliminates these collateral consequences.

- Fines and fees impose a barrier to Oregonians finding good-paying jobs—a penalty paid by both individuals struggling to find work and by the state’s economy suffering lost tax revenue and workforce shortages.
- A strong empirical 2016 study found employment rates “0.9 to 1.0 percentage points lower as a result of the employment penalty faced by the large population of former prisoners and people with felony convictions.”
 - For those without a high school degree, rates are as much as 7.3-to-8.2 percent lower.
- A year after a record is cleared, people are 11 percent more likely to be employed and are earning 23 percent higher wages.ⁱⁱ

Studies show fines and fees at best do not deter crime and at worst incentivize reoffending.

- One rigorous randomized controlled trial found financial obligations had no deterrent effect on crime.
 - The primary difference: people with financial obligations were much more likely to be subject to debt collection efforts that trap people in the justice system for reasons unrelated to public safety—responses like new warrants, garnishment of tax refunds, and contact with private debt collection companies at taxpayer expense.
- Another study found that higher amounts of fees owed were linked to an ***increase in the severity of financially motivated offenses*** that a person committed.ⁱⁱⁱ

Research is clear that a significant portion of people with fines and fees are struggling to pay for food and housing, exacerbated by their court debt.

- The Judiciary committee received written testimony in favor of this bill from the Fines and Fees Justice Center, the leading clearinghouse for policy and research on this issue. In that testimony, they cite a 2023 study they conducted with Duke. It found that:
 - *1 in 3 American adults had fine or fee debt in the previous 10 years—many of them undoubtedly survivors of crime themselves.*
 - *35% of those with fine or fee debt had challenges obtaining food as a result and 27% reported the debt causing hardships related to housing.*^{iv}
- Other research shows that even after ten years, a majority of low-income people still owed court debt.

In response to all this, lawmakers from both parties have curbed fines and fees in acknowledgement of the counterproductive harms they cause, especially when they block record clearance.

- Last year, Maryland passed The [REDEEM Act](#) that requires the court waive all court fees and costs associated with the charge being expunged (with no additional waiting period comparable to what HB 4097 requires).^v
- In 2020, California repealed 23 criminal fees and waived \$16 billion in outstanding debt. The next year, it eliminated 17 more and vacated \$534 million in debt.^{vi}
- Among states that have automated their expungement systems, many prohibit fines and fees from blocking that clearance process.
 - **Pennsylvania’s Republican-led legislature** eliminated fines and fees as a barrier to record clearance in 2020. The bill passed unanimously with the support of the district attorneys association and the chamber of commerce.
 - **Michigan’s Republican legislature did the same** in 2020, when it enacted its “Clean Slate” record clearance law.
 - **Colorado’s 2022 Clean Slate law** does not allow fines and fees to block expungement, as they do under current Oregon law.
 - **Even Louisiana’s otherwise tough on crime** statutes do not allow fines and fees to stand in the way of expungement, according to legal analysis from the National Consumer Law Center.^{vii} Oregon’s laws fall short in comparison.

We believe House Bill 4097 provides a solution and we urge you to support it. JAN would be happy to provide any follow up information that might be of use to the committee.

Thank you for your time and consideration,

Noah Bein
State Policy Manager
Justice Action Network

ⁱ “50-State Comparison: Expungement, Sealing & Other Record Relief,” Collateral Consequences Resource Center, <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-judicial-expungement-sealing-and-set-aside-2-2/>

ⁱⁱ Alfred Blumstein, Kiminori Nakamura, “Extension of Current Estimates of Redemption Times: Robustness Testing, Out-of-State Arrests, and Racial Differences”; Sonja Starr and J.J. Prescott, “Expungement of Criminal Convictions: An Empirical Study”

ⁱⁱⁱ Tyler Giles, The Government Revenue, Recidivism and Financial Health Effects of Criminal Fines and Fees, Working Paper, available at <https://sites.google.com/view/tylergiles/research?authuser=0>.

^{iv} Fines and Fees Justice Center & Wilson Center for Science and Justice at Duke Law, *Debt Sentence: How Fines And Fees Hurt Working Families* (May 2023), available at <https://finesandfeesjusticecenter.org/articles/debt-sentence-how-fines-and-fees-hurt-working-families/>.

^v <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0037?ys=2023RS>

^{vi} <https://www.arnoldventures.org/stories/states-push-new-laws-to-reform-court-debt>

^{vii} “The High Cost of a Fresh Start: A State-By-State Analysis of Court Debt as a Bar to Record Clearing,” <https://www.nclc.org/wp-content/uploads/2022/08/Report-High-Cost-of-Fresh-Start.pdf>