

MEMORANDUM OF SUPPORT

S.282/ A.6769

The Schuyler Center for Analysis and Advocacy urges the legislature to pass this bill that will provide a new opportunity for consideration for youthful offender adjudication for those who were eligible but denied in the past.

The Schuyler Center for Analysis and Advocacy is a 149-year-old statewide, nonprofit organization dedicated to policy analysis and advocacy in support of public systems that meet the needs of disenfranchised populations and people living in poverty. Schuyler Center supports S.282/ A.6769 to provide a new opportunity for consideration for youthful offender adjudication for those who were eligible but denied in the past.

Summary of Provisions:

This legislation adds a new subdivision 5 to Criminal Procedure Law section 720.20, providing that an individual who was an eligible youth but denied youthful offender by the sentencing court may apply for a new determination after at least five years have passed provided that the individual has not been convicted of a new crime since the original sentence was imposed. The court shall consider factors including any mitigating circumstances at the time of the crime, and whether relief from the onus of a criminal record would facilitate the individual's rehabilitation and successful reintegration into society.

Grounds for Support:

One of the most significant effects of a criminal conviction is exposure to the civil consequences which can permanently impair one's future, even if the individual never reoffends. The Council of State Governments has found 1,052 civil consequences of conviction in New York.¹ These legal and regulatory sanctions and restrictions attach to both felony and misdemeanor convictions and affect a wide range of life issues including the ability to access and keep jobs, housing, loans, credit, education and, for non-citizens, the right to remain in the country. These consequences ensure that punishments meted out in our Criminal Courts last far beyond the life of any sentence, essentially becoming a life sentence of stigma and lost opportunity for those prosecuted as teenagers.

¹https://niccc.csgjusticecenter.org/database/results/?jurisdiction=204&consequence_category=&narrow_category=&triggering_offense_category=&consequence_type=&duration_category=&page_number=1

It is important to consider that people with criminal convictions suffer from societal biases, apart from the legal impediments, in their efforts to obtain and maintain employment. A Harvard study found that people with criminal records are less likely to receive callbacks for job interviews if they had a criminal conviction than those without. This result held true for white applicants, who were 50 percent less likely to receive a callback for a job interview if they had a criminal conviction, and black applicants, who were 65 percent less likely to receive a callback for a job interview if they had a criminal conviction.²

In addition to the significant reductions in individual earnings that result from these employment penalties, the economy as a whole, suffers from a reduced workforce. A recent report estimated that the population of former prisoners and people with felony convictions cost the U.S. about 0.45 to 0.5 percentage points of GDP in 2014, or about \$78.1 to \$86.7 billion.³

Youthful offender adjudication is a critical protection against the lifelong negative consequences that stem from prosecution for actions of a young person before they reach full maturity. Recent advances in science, which have been incorporated in both federal and state jurisprudence demonstrates that the adolescent brain is not fully developed until age 25 or 26. Our youthful offender law recognizes the immaturity of youth under 19, and provides avenues to mitigate the long-term burden that criminal records pose. Moreover, given the well-documented issue of disproportionate impact of the criminal justice system on Black and Latinx youth, youthful offender adjudication offers a policy remedy to help decrease the obstacles to their success.

Creating lifelong barriers for behavior that has been shown, for the most part, to be time-limited is an unnecessarily harsh consequence for young people and fails to support true community safety. This bill provides a remedy by codifying an opportunity for those who were eligible to be adjudicated a youthful offender, but instead were convicted of a crime, to apply to the court for a “second look” five years after the sentence was imposed or the person was released from prison or jail. A Judge will make the decision whether a criminal conviction should continue to burden an individual for life after their sentence is served. Relieving the civil consequences of a conviction will allow many young people, particularly young people of color, to meaningfully join the workforce and reach their full potential as contributing members of our communities.

Schuyler Center strongly supports the proposed bill as a significant measure to further strengthen the concept that no individual should be interminably judged for the worst thing they have done during their teenage years. This bill provides an important opportunity for a court to assess the harms of the conviction and review the accomplishments and achievements

² Pager, D. (2007) *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*. Chicago, IL: University of Chicago Press.

³ Bucknor, C. and Barber, A., *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies*, June 2016, Center for Economic Policy and Research. Available at <https://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>

of an individual after completing their sentence and make a new determination as to providing relief from the civil consequences of a criminal conviction imposed during adolescence.

This memorandum was prepared by:

Crystal Charles

Policy Analyst

(347) 670-9730

ccharles@scaany.org

May 21, 2020