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Committee Assignment: Senate Liberty 2

Bill #:SL-13

Sponsors: Isabella LaFreniere, Arianna Nash, & Jason Strickland

An Act To Amend New York State Criminal Procedure Law Article 160 Section 160.59 to add provisions mandating all eligible controlled substance possession records be sealed automatically by the state.

The People of the State of New York, represented in the Senate and Assembly do enact as follows:

Purpose Guarantee all eligible controlled substance possession records are sealed.

Summary of Provisions

Section 1

Controlled substance: a drug or chemical whose manufacture, possession, or use is regulated by a government, such as illicitly used drugs or prescription medications that are designated by law

Sealing a Record: the erasure of all public access to criminal records and to destroy fingerprints, palmprints, booking photos, and DNA samples (except digital fingerprints are not destroyed if you already have fingerprints on file from a different unsealed case)

Misdemeanor: a non-indictable offense and carries an incarceration sentence of 15 to 364 days.

Felony: an offense for which the incarceration sentence exceeds one year.

Automated Model: a computer program that automatically seals records when eligible

Section 2

Section 160.59:

6. Upon determining that the application is not subject to mandatory denial pursuant to subdivision three of this section and that the application is opposed by the district attorney, the sentencing judge or county or supreme court shall conduct a hearing on the application in order to consider any evidence offered by either party that would aid the sentencing judge in his or her decision whether to seal the records of the defendant's convictions. No hearing is required if the district attorney does not oppose the application. All eligible controlled substance offenses will be automatically sealed by the State.

Justification

Nearly 600,000 New Yorkers are eligible to have their record sealed but only 1,758 have achieved this since the law passed in 2017. The sealing process is both unnecessarily confusing and expensive, and for many in lower-income communities this is simply out of reach. Once you have a conviction on your record, you are serving a lifetime punishment of discrimination in regard to housing, employment,



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and government subsidies. Formerly incarcerated people have an unemployment rate of 27%, higher than any other unemployment rate in American history. The formerly incarcerated unemployment costs \$87 billion in GDP annually. Within two years of having a record sealed however, a formerly incarcerated person's likelihood of employment increases and their personal income increases by 25%. By expanding the amount of eligible controlled substance offenses and automatically sealing all eligible possession records, New York would be improving the lives of thousands of residents. In addition, this bill would counteract the disproportionate arrest and conviction rates of people of color and minorities for controlled substance possession.

Fiscal Implications

Currently in Pennsylvania, the cost of sealing records under an automated model is 5 cents per case, compared with up to thousands of dollars under normal petition systems. New York would be expected to have similar expense rates.

Environmental Implications

By using an automated computer model for sealing records, we reduce the paper waste used in courts.

Effective Date

The law will go into effect one calendar year after this bill is passed.