



THE INSTITUTE *for* PEOPLE *with* CRIMINAL RECORDS
A Consortium of Thinkers Advancing Equal Justice Under Law

Michael Sweig, JD, Founder

A Colorado
non-profit corporation

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February 13, 2012

Senate Judiciary Committee

Prepared Remarks: Professor Michael Sweig, JD

Metropolitan State College of Denver

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Colorado Senate Bill 105 - Collateral Consequences

Senators:

It's against the following backdrop I'd like you all please to receive my testimony. When I began lobbying for criminal justice reforms in Illinois several years ago, I confided in a Senator who had been a police chief that I'm a disbarred lawyer and felon. He thanked me for my candor and made two remarks I hope you'll keep firmly in mind when you decide which way to vote on this bill:

1. Everyone has a background. Not everyone's background is memorialized with a criminal record.
2. The lack of a criminal record says nothing about a person's character, integrity, work ethic or likelihood to succeed in the workplace.

Seventeen years ago my criminal mishandling of a seven-figure fee dispute with my law firms' biggest client involved a major trust account violation and caused the collapse of my law firm. We resolved the matter and closed the firm. I voluntarily turned in my law license and turned myself into the prosecutor and pleaded guilty to a felony. My four-year probation sentence required a year of home confinement and 500 hours of community service. I deserved my punishment, which I was fortunate to receive. Black people are incarcerated for much less.

I did not and don't now, however – nor does anyone who pays their dues by serving their sentence – deserve what has transpired for me, and what nearly always transpires for nearly everyone after they serve their time, whether incarcerated or probation.



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The easiest part of breaking the law is the direct consequence: serving your sentence. The hardest parts are the collateral consequences of conviction: everything else your conviction causes by operation of law, legal discrimination in employment, housing and education, and just plain old prejudice, marginalization and disenfranchisement that comes from the felony label.

I'm among the luckiest and most privileged felons you'll ever meet. I come from money, have social connections, the finest Economics and Law degrees money can buy, and I have been blessed to find work as a part-time professor for the last 12 years.

But the only reason my daughters attend Ivy League colleges that suit their talent and accomplishments is because they both earned full scholarships. If I had to pay tuition like most everyone else in this country, my girls would be in community college or working to send themselves to school. For 17 years, I've been financially challenged to pay child support and other bills, and in no way able to earn to my presumed capacity for one basic reason: hiring felons and others with criminal records viscerally offends people. Our culture has demonized lawbreakers to the point of making us *de facto* slaves.

When because of my legal transgressions, I couldn't enlist in JAG Corp after 911 to prosecute terrorists, or get a license to be a private investigator, sell life insurance or rent apartments to college kids, I decided I'd had enough, and that even if I would be on a money diet for the rest of my life, I was going to do something about this problem.

So here I am, a father, teacher, and most importantly, as a citizen. Neither a Democrat nor Republican. I have enough labels already. But I'm here also as a lobbyist because thank God the First Amendment of the US and Colorado



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Constitutions say it's *my right*. Licensing and employment however, and finding housing, are privileges. I can address *you* without someone first having to decide I'm worthy. But for pretty much everything else besides paying bills, child support, and taxes, my brothers and sisters with criminal records must convince every potential landlord, licensor or even a wage-paying employer over and over again that we are okay; safe; trustworthy; not a risk; and won't land them in litigation or bring public opprobrium upon them for giving us a paycheck or a place to pay rent.

If you pass this bill you won't guarantee any outcome for anyone. That's not the role of law. The law is designed to guarantee access and nothing more.

Please do what you can to guarantee people who have paid their dues access to a road back and to becoming income earning, child support and tax paying members of society.

Your vote here will state which problem you want to be part of:

The easy problem of doing repeatedly what has never worked and won't ever work: punishing people with collateral consequences for so long the only sure access they have is returning to the criminal justice system from reoffending and costing you and your constituents more money than any of us have. For that problem, vote no.

Or with a yes vote, you can confront the more difficult problem: fixing this with the knowledge your yes vote of confidence that people upon whom this bill's success will depend will do the right thing: judges, prosecutors, felons, misdemeanants, licensors, employers and landlords. Thank you, and please choose to be part of the more difficult problem. It's the only choice for making things better.

||||||| END |||||||