Testimony of Sarah Gersten  
Executive Director and General Counsel  
Last Prisoner Project  
before the Connecticut Joint Committee on Judiciary  
on SB 16  
in SUPPORT  
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Thank you, members of the Committee for providing the opportunity to submit written testimony in support of Senate Bill 16. I am testifying today on behalf of the organization: The Last Prisoner Project. I serve as the organization’s Executive Director and General Counsel. The Last Prisoner Project (LPP) uses a multifaceted approach to addressing the disparities in sentencing for cannabis offenses and the collateral consequences of those arrests and convictions. LPP works to redress these disparities through policy reform, legislative advocacy, and impactful direct service programs that work to both release nonviolent cannabis offenders from incarceration and to assist those coming out of incarceration in rebuilding their lives through reentry programs and anti-recidivism efforts. We thank the Connecticut legislature for the opportunity to testify concerning the legalization of cannabis in the state and related criminal justice reform and social equity measures.

It is imperative that the state include such measures as a part of any legislation to legalize and regulate cannabis. We have seen how difficult it is to retroactively create an equitable industry post-legalization in states like Colorado and Washington. Additionally, if Connecticut does not create a framework for legalization rooted in repairing the past harms of prohibition, particularly on communities of color, not only do we miss an opportunity to reform a justice system that continues to fail these communities, but we also risk exacerbating these problems. (For instance, in Colorado arrest rates for black and latinx youth rose dramatically.)
However, states that have fully legalized have generally seen positive social justice impacts across the board. Arrests in all legal marijuana states and Washington, D.C. for the possession, cultivation and distribution of marijuana have plummeted since voters legalized the adult use of marijuana, saving those jurisdictions hundreds of millions of dollars and preventing the criminalization of thousands of people. The reduction in arrests has resulted in substantial savings, estimated at hundreds of millions of dollars, for law enforcement and the judiciary. And that’s not to mention the millions of dollars in tax revenue that are being reallocated to fund community reinvestment programs, as well as education and public health programs, including substance use disorder treatment and drug use prevention programs.

To that end, we applaud the drafters of SB 16 for including provisions for the automatic erasure of past cannabis offenses. The negative effects of a criminal record on an individual’s life are well documented. Even minor offenses, such as a nonviolent drug possession charge, carry lifelong consequences that can impact an individual’s access to employment, housing, voting, financial stability, social assistance programs, and other opportunities, despite the debt that has already been paid to society. The consequences of a criminal record also come at a great cost to our economy. The estimated cost of employment losses among people with criminal records is as much as $65 billion per year in terms of gross domestic product.

And one of the most common offenses exacerbating this problem, marijuana possession, has been decriminalized or legalized in a majority of states, including here in Connecticut. While social and political attitudes on marijuana and its legality are changing, America’s criminal justice system is still arresting and incarcerating individuals for marijuana offenses. While a billion dollar legal cannabis industry is emerging across the US, every minute, someone is arrested for marijuana possession, and again in 2018 arrests for marijuana increased.

Further, the effects of a criminal record are exacerbated for marginalized communities, which are already more susceptible to over-policing and stricter sentences. Ultimately, America’s war on drugs and the overcriminalization of marijuana use specifically is an issue of race and class discrimination. Overwhelmingly, people of color are much more likely to be arrested and charged with marijuana possession, although the rates of marijuana use do not substantially differ across racial and ethnic groups. Here in Connecticut that fact holds true. Data shows that black residents are over three times more likely to be arrested for marijuana possession despite equal rates of usage.

Fortunately, along with a growing trend toward legalization there is also a growing trend toward easing the process for people to seal or expunge past marijuana convictions. Unfortunately, while these laws do simplify the process, only a fraction of eligible individuals are using them. And this is not limited to marijuana offenses. Legal analysts state that many Americans do not take advantage of the increasing number of expungement and record sealing laws.

Part of this problem is lack of access to information. Many individuals may simply not realize they are eligible for expungement or sealing. The preliminary step of determining eligibility involves understanding a complicated state statute—a daunting task for those without formal legal training. Even more so, the process for applying for relief and properly submitting your request is difficult to navigate without expert assistance. Even in states like Massachusetts where the process is arguably the least complex, many eligible individuals are not sealing or expunging their marijuana convictions. This is because publicly available information about the expungement
process can be difficult to decipher for those without a legal background or for whom English is a second language.

Additionally, the cost of expungement is often prohibitively high for those who most need it. Beyond high court fees, many individuals with criminal records often lack the resources to hire an attorney. This means that even a simplified petition process is often still too complex and costly to achieve the goal of greater equity for those held back by previous marijuana offenses on their records. While low-cost options for expungement such as legal aid clinics and other nonprofits are increasing available, many people are simply unaware of these affordable options. Moreover, pro bono services are often overwhelmed and lack the resources they need to fully serve their communities. Not to mention many have strict eligibility requirements, limiting the number of individuals they can serve. Low rates of record sealing are consistent with outcomes in other states with application-based sealing, and illustrates the need for an automatic process.

Our work has proven to us that there is a critical need for this type of reform. Over the past year LPP has developed vocational trainings that create pathways to employment, within and outside of the cannabis industry, for justice-involved individuals. However, one of the biggest barriers to implementing these programs in Connecticut are the barriers to employment individuals with cannabis and other offenses continue to face when seeking gainful employment. Here in Connecticut, like many states, there is a fundamental injustice that those with past cannabis convictions are now barred from participating in and deriving economic benefits from the legal cannabis industry.

But Connecticut now has the opportunity to help right this injustice. Our work shows us that legislators are rightly concerned that individuals with past convictions for conduct that is now decriminalized should not continue to bear the stigma those convictions create. And part of that solution must be the creation of automatic erasure and records destruction processes. We know that an applications-based system, which unfairly puts the burden of removing this stigma on the individual who bears it, not on government which created the stigma, will be largely ineffective and provide relief to few who need it. Thus, we would also urge the legislature to provide for automatic erasure of all prior cannabis offenses, not limited to possession, or based on the date of the offense.

Additionally, we applaud the drafter’s focus on creating an equitable cannabis industry, including equity in hiring practices and workforce development, particularly for justice-involved individuals. By establishing the framework for the Cannabis Equity Commission, SB 16 gives stakeholders, and most importantly voices from disproportionately impacted communities, the opportunity to create regulations that will promote equity throughout the industry, from hiring to ownership. Additionally, by specifically including language allowing for participation in the industry for those who have faced the devastating effects of the criminalization of cannabis, SB 16 is rightfully prioritizing repairing the harms of the War on Drugs through legalization. We look forward to the opportunity to work with the state to ensure that these guiding principles are actually implemented should a legalization measure pass.
By creating an industry that allows for participation for justice-involved individuals and by ensuring automatic erasure of past cannabis convictions, we can provide impacted individuals across the state of Connecticut with the opportunity to rebuild their lives, while building the state’s workforce and strengthening its economy. Thank you for your consideration.