



HENRY MCMASTER
GOVERNOR

May 22, 2023

The Honorable G. Murrell Smith, Jr.
Speaker of the House of Representatives
State House, Second Floor
Columbia, South Carolina 29201

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval R-85, H. 3890, which seeks to create exceptions to the threshold eligibility requirements for individuals seeking an expungement who were sentenced under the Youthful Offender Act, S.C. Code Ann. §§ 24-19-5 *et seq.*, by exempting convictions for disturbing schools and driving under suspension from the requirement that an individual must not have been convicted of any other offenses for five years prior to expungement.

I have stated multiple times in vetoing previous expungement-related legislation that I believe not only in the Rule of Law but also in grace. I appreciate the laudable goal of helping people secure employment, and I recognize the challenges that individuals with criminal records face when applying for jobs. Just as individuals deserve second chances after they have paid their debt to society, employers and others have a right to receive and rely on accurate information. In balancing these aims, an individual's criminal history can be contextualized and considered in light of the totality of the circumstances, but it should not be erased. That would, as Governor Haley noted in vetoing expungement legislation in 2012, "unfairly deprive[]" "businesses and the community . . . of the ability to be informed about the criminal histories of those caring for our children, minding our cash registers, and installing ou[r] alarm systems." Moreover, to the extent this legislation is principally intended to address concerns over the previous version of section 16-17-420 of the South Carolina Code of Laws, it appears that the Attorney General's recent resolution of litigation involving the predecessor statute for disturbing schools has rendered H. 3890 largely redundant or otherwise unnecessary. *See Order, Kenny v. Wilson*, 2:16-cv-2794 (D.S.C. Apr. 4, 2023), ECF No. 267; Consent Mot. re Retention of Records, *Kenny v. Wilson*, 2:16-cv-2794 (D.S.C. Mar. 28, 2023), ECF No. 265.

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As in the past, I remain unwilling to sign legislation that would have the practical effect of erasing large categories of criminal records and prohibiting employers from considering a person's complete criminal history when making critical hiring decisions. At the same time, it is well recognized that a job is the best way to reduce recidivism. Accordingly, I continue to be willing to work with the General Assembly to pass laws to improve employment opportunities for individuals who have paid their debt to society without compromising the safety of our communities.

For the foregoing reasons, I am respectfully vetoing R-85, H. 3890 and returning the same without my signature.

Yours very truly,



Henry McMaster