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July 6, 2021

The Hon. Daniel McKee
Governor
82 Smith Street, Room 115
Providence, RI 02903

VIA MAIL AND EMAIL

RE: **Request to Sign H-5599/S-1001**

Dear Governor McKee:

I am writing to urge you to sign House Bill H-5599 and Senate Bill S-1001. The legislation eliminates “moral turpitude” as a ground for denying or revoking a person’s professional license. Since you may not know the background or rationale for the bill, I wanted to share it with you.

By removing references to “moral turpitude” from state licensing statutes as the basis for denying or revoking a license, the legislation serves two important purposes. First, the bill seeks to bring some level of rationality to a random mishmash of state licensing statutes whose use of an archaic “moral turpitude” standard can have a devastating impact on individuals seeking to enter a profession for which they may have trained years. Passage of this legislation is also critical to keep these licensing statutes in line with the General Assembly’s action last year in passing a “fair chance licensing” law, which specifically bars consideration of criminal record information unrelated to the occupation for which a license is being sought. P.L. 2020, ch. 65, § 1; P.L. 2020, ch. 71, § 1.

A brief history of this antiquated term might be helpful to explain its lack of utility. Its use in the law goes back over 100 years. It received its judicial sanction in 1951 with a U.S. Supreme Court decision called *Jordan v. DeGeorge*. By a 6-3 vote, the Court held that the term was not unconstitutionally vague. The continued history of judicial interpretation of that phrase belies that determination. Decades later, courts routinely disagree on what the term means and what crimes fit into the category.¹

The dissenters in the *Jordan* case summed it up well by noting: “If we go to the dictionaries, the last resort of the baffled judge, we learn little except that the expression is redundant, for turpitude alone means moral wickedness or depravity and moral turpitude seems to mean little more than morally immoral. The Government confesses that it is ‘a term that is not clearly defined.’” At the time of the decision, Black’s Law Dictionary defined the phrase as “inherent

¹ See, e.g., *Navarro-Lopez v. Gonzales*, 503 F.3d 1063 (9th Cir. 2007), holding that being an accessory after the fact did not constitute a crime of moral turpitude. The decision, before a 15-judge panel, led to four written opinions, ultimately with nine of the fifteen judges concluding it did not constitute “moral turpitude” and six believing it did.

baseness or vileness of principle or action; shameful wickedness or depravity.” The “depraved” crime that the majority of the judges in *Jordan* concluded constituted a crime of “moral turpitude” was conspiracy to defraud the government of taxes on distilled spirits.

Time has not been any kinder to the term. It is currently defined in Black’s Law Dictionary as “conduct that is contrary to justice, honesty or morality.” As standards go for assessing a criminal record, it could not be more nebulous or open-ended, and it is precisely the opposite of what the fair chance licensing law requires.

The continued presence of a “moral turpitude” standard in numerous licensing statutes thus directly conflicts with the “fair chance” law and could encourage agencies to make an end-run around that statute’s restrictions by relying on this vague standard to deny a person a license.

It is worth noting that, as a result of the recognition that “moral turpitude” is such a hopelessly imprecise term, it has been years since the General Assembly has enacted a licensing statute that included this standard, so it is more than timely for this legislation to remove it once and for all from earlier-passed laws.

No person should fear being denied entry into their profession, or losing a license, based on a criterion that undermines the fair chance licensing law and that no reasonable person can truly explain with anything coming close to precision. Removing this archaic term from more than two dozen licensing statutes will help prevent that from happening. The ACLU of RI therefore urges your approval of this legislation when it reaches your desk.

Thank you for considering our views, and please let me know if you have any questions about this.

Sincerely,

A handwritten signature in black ink that reads "Steven Brown". The signature is written in a cursive, flowing style.

Steven Brown
Executive Director

cc: Kim Ahern