

Senate Bill 2238
Senate Judiciary Committee
Testimony Presented by Sara Behrens
February 4, 2025

Good morning Chair Larson, members of the committee. My name is Sara Behrens and I am a staff attorney with the State Court Administrator's Office. I am here today in opposition to Senate Bill 2383.

We have some concerns with the current bill. First, the term "expungement" is a bit misleading as records are really not truly "expunged." The term typically used is "sealed." We are supportive of the amendment proposed by Senator Braunberger to change "expunged" to "sealed."

Second, we have concerns about the lack of standards to apply by district court judges. The way the bill currently reads, seven years is the only standard. There are instances where it may be inappropriate to seal an eviction record. Many eviction actions include a judgment for past due rents and damages to the property. This judgment may not yet be satisfied at the seven-year mark. There may also be instances where an individual has had additional evictions following the eviction action they seek to seal, in which case it may be inappropriate to seal the record.

Third, subsection 2 of the bill is very broad. There are times that domestic violence occurs in a relationship but it is unrelated to the eviction. For instance, the

parties may reside in different domiciles. We are supportive of the amendment to narrow this provision to only those evictions that are a result of the domestic violence.

Finally, I would like to point out that Supreme Court Administrative Rule 41 provides the opportunity for an individual to file a request that a record be made confidential. The rule allows the court to determine if the individual has an overriding interest to overcome the presumption of openness of court records. The rule contains an inexhaustive list of factors the court can consider including the risk of injury to others, privacy rights and interests, propriety of business information and public safety. Therefore, this can currently be accomplished absent this legislation.

Thank you for your consideration and we urge a do not pass.