

# HCH\_FAV\_SB 699

Uploaded by: ciekot, ann

Position: FAV

**HEALTH CARE FOR THE HOMELESS TESTIMONY**  
**IN SUPPORT OF**  
**SB 699 – Criminal Procedure – Automatic Expungement –**  
**Possession of Marijuana**

**Senate Judicial Proceedings Committee**  
**March 5, 2020**



**Health Care for the Homeless supports SB 699**, which would require the automatic expungement of charges relating to possession of marijuana.

SB 699 will help end homelessness by reducing barriers to employment and housing. Criminal records, including records of non-convictions, create almost insurmountable barriers to obtaining employment, housing, education, and other critical resources like social safety net programs.<sup>1</sup> As part of our health care services, Health Care for the Homeless provides permanent supportive housing to nearly 400 people. As such, we work closely with local housing authorities and see firsthand how convictions can explicitly prevent someone experiencing homelessness to be housed. For instance, the Housing Authority of Baltimore City (HABC) will deny eligibility for admission for a period of 18 months for a misdemeanor conviction and for a period of three years for a felony conviction beginning on the date of conviction or the release from incarceration, whichever is later.<sup>2</sup> Therefore, the ability to expand and streamline expungements for non-violent offenses related to marijuana possession will have a significant impact in providing greater and more expedited housing opportunities for our clients.

The Maryland General Assembly has already recognized the utility of being able to expunge records related to the possession of marijuana when they expanded the law to make the possession of marijuana and eligible for expungement<sup>3</sup> if more than 4 years after the disposition date.<sup>4</sup> Given the barriers criminal records pose to a person's ability to procure housing and employment, coupled with the acknowledgement by the General Assembly that reform is needed for how we treat marijuana possession in the criminal justice system, it only makes sense to extend this logic and allow marijuana possession to be automatically expunged from a person's criminal record. As such, we urge a favorable report by the committee.

*Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County. For more information, visit [www.hchmd.org](http://www.hchmd.org).*

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<sup>1</sup> See American Public Health Association, *Housing and Homelessness as a Public Health Issue* (Nov. 2017), available at <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>.

<sup>2</sup> Housing Authority of Baltimore City, *Admissions & Continued Occupancy Policies FY 2017*, available at <http://static.baltimorehousing.org/pdf/HABCACOPFY2017.pdf>.

<sup>3</sup> MD Code Ann., Crim. Proc., § 10-105(a)(12).

<sup>4</sup> MD Code Ann., Crim. Proc., § 10-105(c)(8).

# **NCADD\_FAV\_SB 699**

Uploaded by: ciekot, ann

Position: FAV



**Senate Judicial Proceedings Committee**

**March 5, 2020**

**Senate Bill 699**

**Support**

NCADD-Maryland supports Senate Bill 699 to allow people to expunge criminal records related to the possession of marijuana before the State changed its policy to decriminalize this possession.

The collateral damage caused by the war on drugs continues to harm people in Maryland. As this committee has heard repeatedly over the years, people with criminal records are too often denied employment, housing, food stamps, and scholarships, without any due consideration of the details involved in the records.

Discrimination against people with substance use disorders can be a significant barrier to recovery efforts. Criminal records pose one of the greatest difficulties to obtaining employment and housing, two things crucial to successful, long-term recovery. This bill provides one more avenue to help people improve their chances of success.

We urge a favorable report on SB 699.

*The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.*

# **Baltimore Harm Reduction Coalition\_FAV\_SB699**

Uploaded by: Gudlavaletti, Rajani

Position: FAV

March 5, 2020

The Honorable William Smith Jr  
Chairman, Senate Judicial Proceedings Committee  
2 E, Miller Senate Office Building  
Annapolis, MD 21401



**Senate Bill 699 - Criminal Procedure – Automatic Expungement  
Possession of Marijuana - FAVORABLE**

Dear Chair Clippinger and House Judiciary Committee members,

Baltimore Harm Reduction Coalition (BHRC), an advocacy organization that mobilizes community members for the health, dignity, and safety of people targeted by the war on drugs and anti- sex worker policies, supports Senate Bill 699 (Criminal Procedure – Automatic Expungement – Possession of Marijuana.)

This bill will require Maryland courts to initiate expungement of marijuana possession charges without the filing of a petition or payment of a fee by the person who is subject of the records.

Considering possession of marijuana was decriminalized in 2014, this proposal to automatically expunge the records of those previously charged with possession is long overdue. This policy change is needed now, especially in the wake of the harmful war on drugs that has targeted and encumbered innumerable Black and impoverished Marylanders with non-violent cannabis-related charges for decades. **The burdensome administrative process to expunge one’s record effectively saddles many Marylanders with a criminal record**, despite changes in Maryland law to reduce or eliminate certain criminal charges. People who have had traumatic interactions with the judicial system are even less likely to approach a court to complete this process, creating more inequity in who the system serves to protect.

**Automatic expungement is a fairer process and will help address the injustice of the application of marijuana possession criminal penalties.**

BHRC respectfully requests the Committee give this measure a **favorable report**. Thank you for your consideration.

For more information about BHRC or this position, please contact Tricia Christensen at [Tricia@BaltimoreHarmReduction.org](mailto:Tricia@BaltimoreHarmReduction.org).

# **ToniHolness\_FWA\_SB699**

Uploaded by: Holness, Toni

Position: FAV



**Testimony for the Senate Judicial Proceedings Committee  
March 5, 2020**

**SB 699 Criminal Procedure - Automatic Expungement - Possession  
of Marijuana**

**FAVORABLE WITH AMENDMENT**

TONI HOLNESS  
PUBLIC POLICY DIRECTOR

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FOUNDATION OF  
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OFFICERS AND DIRECTORS  
JOHN HENDERSON  
PRESIDENT

The ACLU of Maryland supports SB 699, which would require the automatic expungement of records related to simple possession of marijuana. We respectfully urge the committee to consider an amendment allowing for individuals to opt out of the automatic nature of the expungement.

Studies show that employment opportunities can reduce recidivism rates.<sup>1</sup> Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, such as minor possession of marijuana, which this body decriminalized in 2014—can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

**Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing**

A misdemeanor criminal record can and does create a barrier to employment for many Marylanders. More than 80% of U.S. employers perform criminal background checks on prospective employees.<sup>2</sup> Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a cosmetology license,<sup>3</sup> an electrician license,<sup>4</sup> professional engineer license,<sup>5</sup> a landscape architect license,<sup>6</sup> an interior designer certificate,<sup>7</sup> and countless others.

<sup>1</sup> See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

<sup>2</sup> Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management, Alexandria, Va.: Society for Human Resource Management, 2006.*

<sup>3</sup> Md. Business Occupations and Professions, Code Ann. § 5-314

<sup>4</sup> Md. Business Occupations and Professions, Code Ann. § 6-316.

<sup>5</sup> Md. Business Occupations and Professions, Code Ann. § 14-317.

<sup>6</sup> Md. Business Occupations and Professions, Code Ann. § 9-310.

<sup>7</sup> Md. Business Occupations and Professions, Code Ann. § 8-310.



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Maryland

Misdemeanor convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.<sup>8</sup>

A misdemeanor conviction also hinders an individual's access to stable housing and a range of public benefits. A misdemeanor conviction record may bar individuals from residing at certain homes,<sup>9</sup> and exclude individuals from low-income utility payment plans.<sup>10</sup>

### **Amendment to allow Individuals to Opt Out of the Automatic Expungement**

Some individuals may need to retain their criminal records, particularly non-citizens who intend to apply for naturalization and who may need to declare the result of all entanglement with the criminal legal system. To accommodate this, we support the House bill sponsor's amendment to allow individuals to opt out of the automatic expungement and instead permit them to manually process their expungement at a later date, when they no longer need access to the record.

For the foregoing reasons, the ACLU of Maryland urges this committee to issue a favorable report on SB 699, with the aforementioned amendment.

<sup>8</sup> Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

<sup>9</sup> See for example, COMAR 35.04.01.04.

<sup>10</sup> COMAR 20.31.01.08.

**BCSAO\_FAV\_SB699**

Uploaded by: mosby, Marilyn

Position: FAV



March 4, 2020

Senator William C. Smith, Jr.  
Chair, Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

**Re: Support for Senate Bill 699 - Automatic Expungement - Possession of Marijuana**

Dear Chairman Smith and Committee Members:

As the State's Attorney for Baltimore City, I stand in strong support of Senate Bill 811, which, if passed, will require the "automatic expungement" of all court and police records pertaining to the disposition of a charge of possession of marijuana, and prescribe requirements and timelines for this process that vary based on the date the charge was entered and the existence of other charges in the case.

In 2019, my office made the decision, based on evidence and data, to no longer prosecute marijuana possession as we found doing so was reinforcing a racially biased practice, a waste of limited resources, and did not contribute to an increase in public safety. In addition to the reforms I implemented in my office, we wanted to ensure we were righting the wrongs of the past knowing the disparate enforcement had already had severe consequence in our communities; consequences which create social and economic barriers for individuals reentering into society by denying or restricting benefits otherwise available to all citizens. Specifically for marijuana possession charges, these individuals are suffering consequences for a substance that is now legal in 11 states and is personal possession is decriminalized in our State.

Senate Bill 699 allow for automatic expungement for these residents and begin to right the wrongs of the past. This is why I urge your favorable report.

Sincerely,

A handwritten signature in blue ink that reads "Marilyn J. Mosby".

Marilyn J. Mosby  
State's Attorney for Baltimore City

# **OliviaNaugle\_FAV\_SB699**

Uploaded by: Naugle, Olivia

Position: FAV



**March 5, 2020**

**SB 699**

**Testimony from Olivia Naugle, Legislative Analyst, MPP, in support of SB 699**

Dear Chairman Smith, and members of the Judicial Proceedings Committee:

My name is Olivia Naugle and I am a legislative analyst for the Marijuana Policy Project (MPP), the largest marijuana policy reform organization in the United States. MPP has been working to improve marijuana policies for more than 20 years; as a national organization, we have expertise on the approaches taken by different states. MPP is also the convening organization of the Maryland Cannabis Policy Coalition, a diverse group of organizations that is working to advance sensible and humane marijuana policies.

I am here today in support of SB 699, which would provide for the automatic expungement of court and police records relating to charges of possession of marijuana. This bill would dramatically improve the lives of individuals who are burdened with criminal records for marijuana possession. The bill would apply to charges that are disposed of by October 2020. Each marijuana possession records would be expunged either by October 2020 or by October 2028, depending on if there was an additional charge.

A criminal record for marijuana possession makes it more difficult to obtain a job, housing, and a college education. Unequal enforcement of marijuana laws means these collateral consequences disproportionately affect people of color. Prior to the state decriminalizing possession of 10 grams or less of marijuana in 2014, black Marylanders were 2.9 times more likely to be arrested for marijuana possession than were white Marylanders, despite similar usage rates.<sup>1</sup> And available evidence suggests that, although decriminalization helps by reducing the number of people who are criminalized, there continues to be a disparity in the remaining arrests. For example, *Baltimore Fishbowl* reported in 2018, that Baltimore police arrested 1,448 adults and 66 juveniles for cannabis possession during 2015, 2016, and 2017. Of those arrestees, 96% were African-American.<sup>2</sup>

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<sup>1</sup> ACLU of Maryland, *The War on Marijuana in Black and White*, available at:

<https://www.aclu.org/report/report-war-marijuana-black-and-white>

<sup>2</sup> McLeod, Friedman, & Soderberg. "Structural Racism and Cannabis: Black Baltimoreans still disproportionately arrested for weed after decriminalization". *Baltimore Fishbowl*. Dec. 28, 2018, available at: <https://baltimorefishbowl.com/stories/structural-racism-and-cannabis-black-baltimoreans-still-disproportionately-arrested-for-weed-after-decriminalization>. It should be noted that the amount decriminalized by Maryland is lower than most other states that have implemented this policy; one ounce (28.3 grams).

SB 699 is an important and just reform that will allow those with a marijuana possession conviction to move on with their lives without suffering the harsh collateral consequences a conviction carries. This bill would make expungement of marijuana possession convictions automatic, rather than requiring the individual to file a petition or pay related fees — which can be a burdensome particularly to low-income residents.

I would like to commend the General Assembly for taking up the issue of cannabis legalization by implementing the marijuana legalization workgroup. Given the trends in polling, and the increasing recognition by elected officials on both sides of the aisle that criminalizing cannabis users has done more harm than good, ending marijuana prohibition in Maryland has become less a question of “if” and more about “when” and “how.”

Still, the longer the legislature waits to move forward with legalization, Marylanders are going to be subjected to the harms of cannabis prohibition. As the workgroup did not recommend moving forward with legalization this year, I encourage the legislature to enact SB 699 this session to reduce the harm done by Maryland’s cannabis laws. While there are a number of topics related to cannabis legalization the workgroup have not yet come to a consensus on, the criminal justice sub workgroup *did* come to a general consensus that prior convictions for marijuana-related crimes should be expungeable.

Elected officials in Maryland have already acknowledged the harm associated with criminalizing marijuana possession by taking steps to improve that failed and unjust policy. The state decriminalized cannabis in 2014, making possession of 10 grams or less punishable by a civil fine of \$100 rather than a criminal penalty and potential jail time. Just last year, Baltimore City State’s Attorney Marilyn Mosby announced that her office would no longer prosecute marijuana possession, regardless of amount.

As Maryland moves down the path of more sensible and just marijuana policies, it should also look back at remedying the harm that has been done by creating an easy pathway for those harmed to move forward with their lives. SB 699 achieves this goal.

Thank you Chairman Smith, and members of the committee for your time and attention. I respectfully urge a favorable report of SB 699.

If you have any questions or need additional information, I would be happy to help and can be reached at the number or email address below.

Sincerely,

Olivia Naugle  
Legislative Analyst  
Marijuana Policy Project  
202-905-2037  
Onaugle@mpp.org

## **Rhudy\_fav\_sb699**

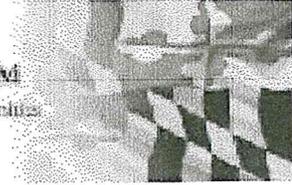
Uploaded by: Rhudy, Bob

Position: FAV

## SUPPORT SB 699 - automatic expungement

### MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Will Smith and Senate Judicial Proceedings Committee

FROM: Bob Rhudy and Phil Caroom, MAJR Executive Committee

DATE: March 5, 2020

Maryland Alliance for Justice Reform (MAJR) strongly supports SB 699 to permit expungement of previous convictions for simple possession of marijuana.

In 2012, the Maryland General Assembly acknowledged the legitimate medical uses of marijuana and legalized these. In 2014, similarly, the Maryland General Assembly acknowledged the minimal harm of personal use of small quantities of marijuana and decriminalized this. SB 699 acknowledges that Marylanders, who may have used marijuana for medical purposes and in small quantities, should not retain criminal stigma for what now is legal.

However, because police and prosecutors in previous years generally did not include the quantities in charges for simple possession of marijuana, SB 699 sensibly permits expungement of all such simple possession charges in due course.

In addition to this basic fairness, other evidence-based studies also support SB 699:

- 1) Studies show that “Fewer than 10 percent of those who try marijuana ever end up meeting the clinical criteria for dependence, whereas 32 percent of tobacco users and 15 percent of alcohol users do.” - Marijuana Fact Book, Drug Policy Institute
- 2) Statistically speaking, possession of marijuana is the leading edge of racially discriminatory law enforcement in the United States. In 2010, 52% of all drug arrests were for marijuana; of 8.2 million cases across the U.S., 88% were charged only with simple possession; and, despite similar rates of drug use, African-Americans were 3.73 times more likely than whites to be arrested for possession of marijuana. (See “Marijuana Arrests by the Numbers” - ACLU.)
- 3) With time, Americans have realized that it is appropriate to decriminalize and remove marijuana from the “War on Drugs” with 67% of the public favoring decriminalization in 2019 — including 55% of Republicans. See Pew research poll (2019).

Thus, improved expungement of marijuana possession may offer substantial help for removing “collateral consequences” of unfair convictions for African-Americans who have been disproportionately impacted by the “War on Drugs.”

For all these reasons, MAJR urges a favorable report on SB 699.

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*NOTE: Phil Caroom joins this testimony on behalf of the Maryland Alliance for Justice Reform executive committee and not on behalf of the Maryland Judiciary.*

**MCPA-MSA\_UNF\_SB 699**

Uploaded by: Mansfield, Andrea

Position: UNF



# Maryland Chiefs of Police Association Maryland Sheriffs' Association



## MEMORANDUM

**TO:** The Honorable William C. Smith Jr., Chairman and  
Members of the Judicial Proceedings Committee

**FROM:** Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

**DATE:** March 5, 2020

**RE:** **SB 699 Criminal Procedure – Automated Expungement – Possession of Marijuana**

**POSITION:** OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 699. This bill would provide for the automatic expungement of all court and police records relating to any disposition of a charge of possession of marijuana. The bill also establishes a timeframe for the expungement determined by whether another charge is associated with the possession charge.

MCPA and MSA understands the desire to provide a second chance for persons in certain circumstances but is concerned with the automatic expungement of charges. SB 699 provides no opportunity for the State's Attorney to note an objection to the expungement for any reason. Further, it applies in the following situations:

- if the defendant negotiated a plea agreement that reduced a felony charge to simple possession of marijuana;
- if the defendant is currently in violation of terms of probation;
- if the defendant is a wanted fugitive;
- if there are pending related civil proceedings involving the defendant; and,
- if there are pending appeals related to defendant's criminal conviction.

In addition, no notice of the contemplated expungement would be provided to any witnesses testifying in the case; and extensive and costly work hours and/or computer programming would be necessary to search for applicable records potentially extending over several decades.

Before any changes are made to the expungement process these matters need to be addressed. Input is needed from the judiciary, prosecutors and law enforcement to ensure public safety.

For these reasons, MCPA and MSA OPPOSE SB 699 and urge an UNFAVORABLE Committee report.

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# **SHELLENBERGER\_UNF\_SB699**

Uploaded by: Shellenberger, Scott

Position: UNF

Bill Number: SB699  
Scott D. Shellenberger, State's Attorney for Baltimore County  
Opposed

**WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN**  
**OPPOSITION TO SENATE BILL 699,**  
**AUTOMATIC EXPUNGEMENT**  
**POSSESSION OF MARIJUANA**

I write in opposition of Senate Bill 699 which would provide for the automatic expungement of records regarding convictions for possession of marijuana.

Possession of more than 10 grams of marijuana is currently still a crime in Maryland. There is an extensive expungement law that lays out an entire scheme on what can be expunged and what should not. Marijuana, like all other crimes, should remain in that well thought out statutory scheme.

In addition, there is currently a legislative commission studying all aspects of marijuana including the issue of expungements. The Legislature should wait until the commission has completed its fact finding and makes its recommendations before this body should take action in marijuana issues.

Finally, this is an unfunded mandate. Over the past several years the Legislature has greatly expanded the law of expungement. My office can barely keep up with the current workload. If this bill were to pass, where now it is the State's job to initiate the expungement, my office, and I suspect others, would need to hire additional personnel.

I urge an unfavorable report of Senate Bill 699.

**DPSCS\_INFO\_SB 699**

Uploaded by: kahl, catherine

Position: INFO



## Department of Public Safety and Correctional Services

### Office of the Secretary Office of Government and Legislative Affairs

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STATE OF MARYLAND

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BOYD K. RUTHERFORD  
LT. GOVERNOR

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CAROLYN J. SCRUGGS  
ASSISTANT SECRETARY

GARY McLHINNEY  
ASSISTANT SECRETARY

CATHERINE KAHL  
ACTING DIRECTOR

**BILL: SENATE BILL 699**

**POSITION: LETTER OF INFORMATION**

**EXPLANATION:** This bill will define automatic expungement and require the automatic expungement, including partial expungement, of certain records when certain circumstances are met.

### COMMENTS:

- The Department of Public Safety and Correctional Services (DPSCS) houses the Criminal Justice Information System (CJIS) which is the repository for law enforcement to access criminal history record information, fingerprints, etc., and provides background checks to statutorily and regulatory authorized entities.
- SB 699 will require the partial expungement of an individual's record, meaning expunging an eligible charge from a group of charges arising out of the same conviction.
  - When an individual is charged, all charges are included in the record, creating a unit of charges. If the individual has multiple charges, the expungement of one charge cannot be completed. It is not technically possible.
  - Currently, a charge is not eligible for expungement if the charge is part of a conviction in a group of convictions and not all of the convictions are eligible for expungement.
- Requiring partial expungement for all criminal history records, where the defendant was charged with one or more other crimes in the same case, regardless of the other charge or charges, would require additional staff and significant alterations to the CJIS system. **The Department conservatively estimates this bill would cost \$1,042,929 in the first year, and exceed \$682,000 each year thereafter.**
- The current process for expungements are staff intensive and require exhaustive manual research by staff of the Department's Information, Technology and Computer Division (ITCD). Once received from the Court, staff manually input the information from the expungement order

into the expungement tracking system. After the information has been verified with various other criminal history record systems, the information can then be removed, and a Certificate of Compliance issued.

- CJIS is currently unable to remove a charge from a unit to expunge it. The Department would need to make significant changes to the criminal history record systems in order to bifurcate the dissemination of partially expunged records. Specifically, ITCD would have to reprogram its systems, as discussed below in order to filter which records are limited to the criminal justice units and which records can be fully shared with non-criminal justice units.
  - When a partial expungement court order comes in, the staff of the Expungement Unit within ITCD/CJIS must manually research the data (demographics and arrest event including the disposition) from the court order.
  - Once the information is located, it then has to be confirmed, if the event is eligible for expungement according current laws.
  - If CJIS has concerns about the validity of the order for expungement, then that information is shared back to the courts.
- As previously stated, the Department would need to make substantial program changes to the CJIS system and hire additional staff to process requests and ensure required records are being limited to criminal justice agencies and not otherwise shared, costing the Department \$1,042,929 in the first year, and exceed \$682,000 each year thereafter.

**CONCLUSION:** The Department of Public Safety and Correctional Services respectfully requests the Committee consider this information as it deliberates on Senate Bill 699.