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**To:** Members of The House Judiciary Committee

**From:** Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section

**Date:** 3/11/2020

**Subject:** **HB83 – Criminal Procedure – Automatic Expungement – Possession of Marijuana**

**Position:** **Oppose**

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The Legislative Committee of the Criminal Law & Practice Section of the Maryland State Bar Association (MSBA) **Opposes HB83 – Criminal Procedure – Automatic Expungement – Possession of Marijuana.**

This bill would require the automatic expungement of police and court records for cases involving possession of marijuana. When other charges are involved, anything related to the marijuana possession must be expunged.

While the General Assembly has made possession of less than 10 grams of marijuana a civil offense, possession of larger amounts remains a crime. The bill's suggestion that possession should be automatically expunged makes no distinction as to the amount of marijuana involved. Thus someone who was convicted of possessing large amounts of marijuana would be treated in the same fashion as someone who possesses only a moderate amount.

There are situations where someone involved in the distribution and dealing of marijuana is convicted of only possession. This can occur as a result of a jury compromise or a plea arrangement by the state. To unilaterally and automatically expunge those convictions would hide a history of substantial drug involvement that might be important in later proceedings.

More importantly, the bill's provision that any evidence or information related to marijuana possession in a case with other charges would create tremendous problems – both in recordkeeping and practicality. Often, the possession of marijuana is closely related to the circumstances justifying an arrest or search. Removing those connections would hide what occurred in a case and make it difficult to determine the validity of other charges.

Expungement is a useful tool, but it should be done on an individualized and case by case basis and not as an automatic procedure.

For the reasons stated, we **Oppose HB83 – Criminal Procedure – Automatic Expungement – Possession of Marijuana.**



If you have questions about the position of the Criminal Law and Practice Section's Legislative Committee, please feel free to address them to me at 240-606-1298 or at [doyleniemann@verizon.net](mailto:doyleniemann@verizon.net).

Should you have other questions, please contact The MSBA's Legislative Office at (410)-269-6464 / (410)-685-7878 ext: 3066 or at [Richard@MSBA.org](mailto:Richard@MSBA.org) and [Parker@MSBA.org](mailto:Parker@MSBA.org).