

Bill Number: HB1343

Maryland States Attorneys Association

Opposed

**WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 1343,
CRIMINAL PROCEDURE-EXPUNGEMENT-EXPANSION**

The Maryland States Attorneys Association opposes House Bill 1343 which would greatly expand the existing Maryland laws which permit expungement of criminal cases. This Bill would unfairly restrict the public and the judicial system from being fairly aware of a persons criminal background. There are many portions of this bill which cause great concern.

First, a conviction and/or probation before judgement for Driving Under the Influence of Alcohol or Drugs will now be expunged within three years of the finding in court. The public and the judicial system will not be able to know of a prior which is more than three years old and won't be able to pursue the repeat offender punishments which this body has deemed important in its' other legislation.

Second, a person will be able to expunge any misdemeanor conviction within three years and felonies within 5 years of the conviction or conclusion of the sentence whichever is later. Just a few years ago this body went through a detailed process to determine which offenses should be entitled to expungement (and which should not) and the time period between the sentence and the opportunity for expungement. Important within that process was a requirement that the person keep their record clean in the interim and placed a longer time period before which expungement would be permitted. This bill eliminates the consideration of a persons record since the offense desired to be expunged and if the person is pending criminal charges when they request expungement.

This bill would entitle any person convicted of a misdemeanor or felony (excluding a crime of violence, sex offense, hate crime or animal cruelty) to a hearing in which the victim will be called upon to try to stop the expungement. Although not the most important part, the cost and volume of hearings for all of these cases would be astronomical. This would be a large unfunded mandate. It is astounding to think of the crimes which would now be entitled to expungement and a hearing for which a victim will be drawn back in to the system. For example, this would include arson, embezzlement, conspiracy or solicitation to commit murder, rape or any other heinous crime. This just names a few of the crimes.

In addition, this bill would remove the requirement that that a person sign a waiver and release of tort claims if a person wishes to expunge an acquittal or nolle pros less than three years from the disposition. This would expose others to liability for which they may no longer be able to defend themselves with the criminal record and reports.

The judicial system with these expungements of convictions won't be able to know or mention what could be an extensive prior criminal record in deciding how to handle a current criminal offense

before them. A person could choose to engage for example in a lifetime of repeated thefts or arsons and be able to keep knowledge of anything that happened more than five years earlier from the Judge or prosecutor.

An employer may not be permitted to know that an applicant for a job embezzled six years ago from a prior employer. An apartment complex may not be able to know that a person burned down the apartment building he lived in more than five years ago. This could be so even if the person continued to engage in a life of crime after those offenses. This effort makes no sense and is counterproductive to the interests of justice and the protection of our society.

We ask for an unfavorable report.