

Bill Number: HB1336

Maryland States Attorneys Association

Opposed

**WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 1336,
CRIMINAL PROCEDURE- PARTIAL EXPUNGEMENT**

The Maryland States Attorneys Association opposes House Bill 1336 which would eliminate the unit rule which currently exists in expungement law and would unduly restrict access to public records.

The Bill would permit expungement of any charge within a unit which is eligible for expungement even if the person was convicted of an offense within the charging document which is not eligible for expungement. This would hamper the effective and efficient pursuit of justice. It is a common event that a plea agreement is reached where a defendant pleads guilty to one or more charges in a case and the State is free to present the facts of all incidents to the Judge for fair consideration at the time of sentencing. For example, if a person is charged with four different carjackings in one case, the parties may agree that the Defendant will plead guilty to one carjacking and the others will be nolle prossed with an agreement that the Judge will be told about the others. This bill would eliminate any record of those other offenses. This will hamper valid and effective plea agreements.

The proposed mechanism within the Bill to try to deal with the inability to expunge a record in total (because part of the record is not eligible to be expunged) is both incapable of being accomplished and harmful to a fair public record of a valid conviction. The shielding part of the eligible part will not directly affect prosecutors but the limitation on public access to the record is a disservice to the public. This bill permits a court to limit access of a written record to a criminal justice unit. Therefore, the public may be denied an opportunity to know the details of a persons valid and unexpungeable conviction.

Finally, this bill will create a huge financial and time burden on the Court system. Probably almost every case in the history of this State will be eligible for partial expungement. Even if a person is convicted by a jury of Murder, the State probably nolle prossed a minor count before it was presented to the jury. In probably the vast majority of guilty plea cases, the State nolle prossed a count. This would mean that almost everyone will be able to file. This will create an unfunded mandate which cannot be imagined.

We ask for an unfavorable report on House Bill 1336.