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Testimony Urging an Amendment

HB97 – Expungement of Records – Waiting Period

State's Attorney Aisha N. Braveboy and the Office of the State's Attorney for Prince George's County tentatively support **HB97 – Expungement of Records – Waiting Period**, but only with two suggested amendments.

This bill would reduce the waiting period before which an individual could request expungement of a conviction for certain misdemeanors from 10 years to 3 years and for felony theft from 15 years to 5.

We understand the lingering effect that criminal convictions can have on an individual's life, and for this reason we have been sympathetic to efforts to allow an individual who has been found guilty and served their sentence, including probation, to have their conviction expunged - especially when the offense is a misdemeanor.

However, we cannot support the change that would allow a quicker expungement for a conviction for felony theft proposed on lines 8-11 of page 4 of the proposed bill.

The theft statute, found in the Criminal Law article 7-104 and related sections, has three felony levels: (1) theft with a value of at least \$1,500 to less than \$15,000; (2) theft with a value of at least \$15,000 but less than \$100,000; and (3) theft with a value over \$100,000.

While technically "non-violent offenses," theft frequently has extremely serious and often life-changing impacts on victims, which can be either individuals or businesses – especially at the higher levels. We do not believe it is in the public interest to allow these offenses to essentially be removed from public examination and review after only five years have elapsed. If that were to happen, potential employers and community members who might be tempted to trust someone who has previously betrayed trust by stealing would have no way to check on the record of these individuals.

This is not an unlikely event. Over the years, we have seen many examples of repeat behavior on the part of individuals who have been convicted of theft. If anything, recent changes in the law that have significantly reduced the penalty for theft offenses, with a resulting decrease in suggested "guidelines," and the tendency of sentencing judges to treat non-violent offenses like theft as less serious and less deserving of longer sentences have made this more likely.

Should someone who stole the equity out of dozens of homeowners through organized foreclosure fraud at a cost of hundreds of thousands of dollars in lost equity for the victims, and who pled guilty to felony theft, be allowed to have the conviction removed from public records and review?

Should the trusted comptroller of a business who embezzled hundreds of thousands of dollars from the business, or a bank employee who manipulated account records of multiple depositors to the profit of tens of thousands, or the finance manager for a car dealership who manipulated sales documents and financing records for dozens of customers at different dealerships to the profit of tens of thousand dollars, all have their convictions erased so easily?

Theft - especially the modern financial and “white collar” varieties that include embezzlement and misappropriation funds – are at heart fundamental breaches of trust. They should not be so quickly erased.

To fix this, we suggest that the bill be amended to remove the provision that would reduce the waiting period for felony violations of Criminal Law Article 7-104.

We also suggest that efforts to expunge records not be allowed unless any orders of restitution have been paid.

For the foregoing reasons, **we urge amendment of HB97.**

For more information, contact: Doyle Niemann, Assistant State’s Attorney and former Chief of the Economic Crimes Unit, at dlniemann@co.pg.md.us or 240-244-7178.