

Bill Number: HB 97
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 97
CRIMINAL PROCEDURE - EXPUNGEMENT OF RECORDS – WAITING PERIODS

The Maryland States Attorneys Association is opposed to House Bill 97, Criminal Procedure-Expungement of Records- Waiting Periods and asks for an unfavorable report.

In 2016, the Maryland Legislature embarked on a mission and project which became the Justice Reinvestment Act. Included within this extensive package aimed at addressing the criminal justice system, as it existed, was a major change and expansion of expungement availability for those intent on first paying their debt to society but then intent on making a future for themselves without the constraint of a criminal record. In doing so, however, the Legislature was cognizant of and created statutes which still required some accountability and protection of society. This Bill will take us beyond consideration for some accountability and provide little ability to protect society from those who choose to repeatedly commit offenses.

House Bill 97 would significantly alter the well-considered time frames for expungement crafted by this Legislature less than seven years ago. Currently, within the lengthy list of misdemeanors in Criminal Procedure Section 10-110 from which guilty findings can be expunged, the time limitation is ten years. This Legislature determined that this was an appropriate time period in which an individual is able to demonstrate an ability to show their desire to be and remain law abiding. It is important to remember, in many or most circumstances, if an individual had committed one of the listed offenses and had no prior record, they had a strong possibility of receiving a Probation Before Judgement (not a conviction) and would have already been able to expunge that under CP Section 10-105 in three years. If they had not received a Probation Before Judgement for a first offense, it would seem quite likely that the offense was deemed by the Judge to be so serious that it didn't merit such a disposition. Ten years was a well-considered time period for what was judged to be quite serious or a repeat offense.

To use Theft as an example, the public and the retail sector and employers in Maryland ought to be able to have access to information that a person has taken the property of another or even stolen from their employer. Judges and prosecutors deserve to know that just three years ago the person before them as a defendant or testifying in a trial committed a theft.

This bill would allow a person to remove all record of a Second Degree Assault within five years. A person could commit such a serious assault or have such a serious

prior record that a Judge gives them five or ten years in jail. Five years after that, all record of that incident can be erased and not available to a Judge.

Under House Bill 97, a person who steals hundreds of thousands of dollars (Felony Theft) or is a drug dealer or a burglar can get their conviction expunged five years after serving their sentence.

This bill would defeat the trust the public should have in a criminal justice system which should hold a person accountable for their acts for at least an appreciable period of time. We urge an unfavorable report.