

# **Expunge Shield updated.pdf**

Uploaded by: Arthur Klunk

Position: FAV

In November of 2020, my son was charged with a DUI by the Maryland State Transportation Police. At the time, he was a professional Firefighter/EMT. He is a graduate of Towson University with an otherwise good driving record. He was not convicted but instead received a Probation Before Judgement from the Anne Arundel County court system and his charge was reduced to DWI. While he was waiting for his court case, his job and career path drastically changed. He was immediately transferred from his assigned fire station to a dayshift only basic EMT unit. In addition, he was required to appear before the chief of the fire department where he was suspended without pay for four work shifts (96hrs). As an EMT certified by the state, my son also had to report to MIEMSS and was put on probation with them for one year. This meant that he was still able to work as a firefighter/EMT, but he was subject to random drug/alcohol testing each month. He was returned to his original unit, but, during random shifts, he and his whole unit would drive to whichever testing center was assigned for that day. The unit would wait for him during his testing. During that time, he was selected by the department to attend paramedic school and has since become a nationally certified paramedic. Throughout the process of applying for the national paramedic registry exam, he openly addressed his DWI case and supplied court documentation to ensure that his eligibility to serve remained intact. I tell you this to describe the impact his offense and subsequent punishment had on my son and his career. He has never taken this lightly. He sees the effects of drunk driving nearly every shift that he works, and he is embarrassed and in disbelief of his own poor judgement.

As I observed my son's interactions with the judicial system, I became aware that in Maryland there is no opportunity to apply for expungement of this record. I believe that in our state, such a blanket policy encompassing all the nuances of DUI and DWI charges is unfairly

weighted against citizens who have received these charges as a first-time offense, especially where there is no personal injury or property damage. This includes those, like my son, who were given a PBJ from the courts. This means that Maryland citizens who otherwise had good driving records and who had never been in trouble in their lives, like my son, are forced to have this cloud over their heads for the rest of their lives. Surely this will cause problems and hurdles for Maryland citizens, who have not been convicted of a crime, every time they apply for a job or promotion.

For any Marylander to have this hanging over their head simply because they live in Maryland is unwarranted. This could negatively affect their career paths and their future. Their record will always be tarnished and the lapse in judgement they made years ago will always be an issue.

I would like to propose a stepped level of punishment for the court to have available for this type of incident. It includes opportunities for application for shielding then expungement. There is room for judicial input as well.

My suggestions are the following:

- First-time offense with a DWI, where there is no injury or property damage and where PBJ is given, there would be the opportunity to apply for shielding and expungement after a period of time to be determined by the court
- First-time offense with a DUI, where there is no injury or property damage and where PBJ is given, the same court-determined opportunity for shielding and expungement would exist

- Any offense committed during the period prior to or during shielding would result in a permanent record without opportunity for expungement
- At the time of a first offense, when there is personal injury or property damage, the court may decide whether future expungement application would be available for the offender

The waiting period is to help ensure the individual can be trusted NOT to do this again.

My son is now a professional firefighter/paramedic who has twice been decorated for saving lives. He's proud to serve the citizens of his jurisdiction. His DWI experience sparked me into action to fight the state policy against expungement for these offenses. For my son and the citizens of Maryland, please change the law allowing them to get on with their lives in a responsible way.

Thank you for your time and attention to my request.

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**SB 118 - Testimony JPR .pdf**

Uploaded by: C. Anthony Muse

Position: FAV

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Judicial Proceedings Committee  
Executive Nominations Committee  
Vice Chair, Rules Committee

THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**SB 118: Criminal Procedure – Expungement and Shielding – PBJ for Driving While Impaired or Under the Influence**

Good afternoon, Mr. Chairman, Vice Chairman and members of the Judicial Proceedings Committee.

Senate Bill 118 would expand the **eligibility** of convictions that qualify for expungement to include driving under the influence or while impaired. The petition for expungement based on a PBJ under this section may **NOT** be filed earlier than **10 years** after the person is discharged from probation.

Also, a person may petition the court to shield their court and police records relating to a shieldable offense NOT sooner than 5 years after they were discharged from a PBJ. However, if a person is convicted of a new crime during this time, then they are NOT eligible for their conviction to be shielded. And they are NOT eligible for shielding their conviction, if they have a pending criminal proceeding. Additionally, the State's Attorney can file an objection and petition the court, therefore, the expungement petition is not automatic.

As you know criminal records can prevent individuals from employment, housing, and educational opportunities. In fact more than 85% of employers perform background checks on an applicant when they apply for job. So, if you have a past criminal conviction of any kind... it is more difficult for you to obtain employment. Not to mention, anything that occurs after an arrest is documented on an individual's criminal record and it will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged.

In closing, many of us are not the same person that we were 10 years ago, and we should not be limited to employment, housing, and educational opportunities... if we are REHABILITATED. Lastly, this bill does NOT allow repeat drunk drivers to have their records expunged and again it can only be expunged after 10 years.

Therefore, I urge a FAVORABLE report for SB 118.

# **SB0118\_FAV\_DonnaBruce.PDF**

Uploaded by: Donna Bruce

Position: FAV

TO: Hon. Chair William Smith, and Members of the Judicial Proceedings Committee

FROM: Donna Bruce, Owner - Donna Bruce Unlimited, inc.

Good Afternoon Members of the Committee,

I am Donna Bruce, owner of Donna Bruce Unlimited, Inc., which provides art therapy to Baltimore City Mothers who have lost a child to gun violence. I am a resident of District 44B in Baltimore County and support Senate Bill 118 as a means of expanding access to criminal record expungements for DUI/DWIs.

When I lost my son in 2021 due to an overdose, I fell into a deep depression and was placed on medication by my doctors. I also began to consume alcohol in higher amounts which caused friction between my significant other and myself. During an argument with him, I backed my car out of my driveway and ran over an exposed gas main, damaging my vehicle.

When I called the police to report the exposed gas main, they charged me with a DUI even though I was moving my car in my own driveway. This charge cost me my job at the Baltimore County Detention Center, where I provided peer support and trauma-informed care, and crippled my access to transportation and employment. I was also given eight points on my license and was then without transportation for years.

I decided to turn my pain into my passion and assist those grieving their sons and coping with substances by starting my own trauma-informed care business and now have clients all throughout Baltimore City.

I have been employed with the Enoch Pratt Library for two years where I created a pilot substance abuse treatment peer navigator program in seven different libraries serving over 1000 City Residents and am expanding to state agencies.

However, it is still difficult to obtain a promotion, expand to new markets, or manage my clients with this conviction on my record.

Senate Bill 118 will allow me to expunge this charge after waiting a reasonable waiting period. Thank you for the opportunity to weigh in on this important issue and I urge a favorable report.



**SB 118 HTPP Testimony- SUPPORT.pdf**

Uploaded by: Jessica Emerson

Position: FAV

## Testimony of the Human Trafficking Prevention Project

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**BILL NO:** Senate Bill 118  
**TITLE:** Criminal Procedure – Expungement and Shielding – Probation Before Judgment for Driving While Impaired or Under the Influence  
**COMMITTEE:** Judicial Proceedings  
**HEARING DATE:** January 25, 2024  
**POSITION:** SUPPORT

Senate Bill 118 would allow a person to file a petition for expungement of a probation before judgment (“PBJ”) for driving while impaired or driving under the influence after a 10-year waiting period, and to petition the court to shield that PBJ from public view after a 5-year waiting period. The Human Trafficking Prevention Project supports this bill because it will allow those who have completed their probation after an arrest for driving under the influence to petition for criminal record relief of their non-conviction after a substantial waiting period. This will allow these individuals, including sex workers and survivors of human trafficking, many of whom have used drugs and alcohol to cope with trauma, to access opportunities to better their lives.

It is important to note that substance use problems are both a predictor *and* the result of exposure to trauma, including human trafficking,<sup>1</sup> interpersonal violence,<sup>2</sup> sexual abuse and assault,<sup>3</sup> and war-related trauma,<sup>4</sup> meaning that those who struggle with substance use disorders are more likely to experience trauma than those without substance use disorders, *and* that those who have experienced traumatic events are more likely to self-medicate using drugs and alcohol to cope with the trauma symptoms they commonly experience in response to these events.<sup>5</sup> Given that the most recent National Roadside Survey of Alcohol and Drug Use by Drivers found that 20% of surveyed drivers had drugs or alcohol in their system,<sup>6</sup> it is clear that the vicious cycle of substance abuse and trauma also commonly results in exposure to law enforcement as a result of impaired driving.

A key element of recovering from any traumatic experience is the ability to regain control over one’s own life.<sup>7</sup>

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<sup>1</sup> Noël Crowley, *Intersectionality between Substance Use and Human Trafficking* 1-2, <https://freedomnetworkusa.org/2022/07/12/intersectionality-between-substance-use-and-human-trafficking/#:~:text=Individuals%20that%20have%20struggled%20with,substances%20or%20money%20by%20traffickers> (citing the findings of a US survey that 84.3% of trafficking survivors used substances during the time they were exploited, as well as the fact that those who are struggling with substance use disorders are put at higher risk of exploitation by traffickers given that “[t]hey may be targeted due to their dependence through the enticement of a promise of substances or money by traffickers,” and therefore controlled due to the ease with which a trafficker can “withhold the drugs to coerce the survivor into engaging in trafficking activities to get their next high or prevent a painful withdrawal,”).

<sup>2</sup> Jacqueline B. Mehr, et. al., *Intimate Partner Violence Substance Use, and Health Comorbidities Among Women: A Narrative Review* 1-2 (2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9912846/> (citing that up to 75% of women seeking treatment for substance use disorders have experienced interpersonal violence, have greater symptom severity, *and* that “substance misuse and [substance use disorder] has been shown to also place IPV-EW at an increased risk for future [intimate partner violence] victimization,”).

<sup>3</sup> International Society for Traumatic Stress Studies, *Traumatic Stress and Substance Use Problems* 2, [https://istss.org/ISTSS\\_Main/media/Documents/ISTSS\\_TraumaStressandSubstanceAbuseProb\\_English\\_FNL.pdf](https://istss.org/ISTSS_Main/media/Documents/ISTSS_TraumaStressandSubstanceAbuseProb_English_FNL.pdf) (highlighting that people reporting sexual abuse have higher rates of substance use, particularly adolescent survivors of sexual violence, who are “4.5 times more likely to experience alcohol abuse or dependence, 4 times more likely to experience marijuana abuse or dependence, and 9 times more likely to experience hard drug abuse or dependence,”).

<sup>4</sup> *Id.* (citing that “up to 80% of Vietnam veterans seeking PTSD treatment have alcohol use disorders,”).

<sup>5</sup> *Id.* at 3-4 (highlighting that “[t]he use of alcohol or drugs can provide a temporary distraction and relief for traumatized people who may be suffering from very serious and even debilitating problems across multiple areas of their lives,”).

<sup>6</sup> Amy Berning, Richard Compton, & Kathryn Wochinger, *Results of the 2013-14 National Roadside Survey of Alcohol and Drug Use by Drivers* (2015), [https://www.nhtsa.gov/sites/nhtsa.gov/files/812118-roadside\\_survey\\_2014.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/812118-roadside_survey_2014.pdf).

<sup>7</sup> Susan Wyatt, *What is ‘Agency’ in Torture and Trauma Recovery? An Inquiry into the Properties and Explanations of the Concept of Agency and its Impacts* 22 (2023),

[https://www.researchgate.net/publication/372994759\\_What\\_is\\_'agency'\\_in\\_torture\\_and\\_trauma\\_recovery\\_An\\_inquiry\\_into\\_t](https://www.researchgate.net/publication/372994759_What_is_'agency'_in_torture_and_trauma_recovery_An_inquiry_into_t)

While this often involves finding a safe place to live, accessing programs that provide mental health services, and developing improved life skills, the economic stability provided by access to employment is of utmost importance to a trauma survivor's stability and independence.<sup>8</sup> Given that employers routinely conduct criminal background checks on job candidates,<sup>9</sup> and that the job market has trended towards requiring professional licenses, especially when the job includes providing assistance to vulnerable populations like nursing and child care,<sup>10</sup> it is essential that any state-based remedy allow for the broadest possible relief, rather than impose additional hurdles that prevent trauma survivors from moving forward with their lives.

Thankfully, Maryland has consistently recognized the right of former criminal defendants to expunge PBJ's from their records subject to a subsequent conviction prohibition<sup>11</sup> and a three-year waiting period,<sup>12</sup> given that a PBJ is *not* considered a conviction under Maryland law.<sup>13</sup> While it is understandable to want to treat PBJ's for driving while impaired or driving under the influence as more serious than an "average" PBJ given the grave safety risks involved in impaired driving, prohibiting someone from *ever* expunging a PBJ for this offense is not consistent with the ameliorative intent of Maryland's expungement scheme, especially considering how many of those struggling with substance use disorders are using drugs and alcohol to cope with histories of trauma.

In addition to the pre-existing subsequent conviction prohibition referenced above, SB 118 would also require that a defendant seeking to expunge a PBJ for driving while impaired or under the influence to wait 10 years prior to becoming eligible. This significant waiting period, coupled with the requirements<sup>14</sup> and limitations<sup>15</sup> already in place with regard to PBJ's for this offense, ensures that SB 118 strikes the appropriate balance of recognizing the seriousness of driving under the influence with the opportunity for people to move on with their lives.

For these reasons, the Human Trafficking Prevention Project supports Senate Bill 118, and respectfully urges a favorable report.

*For more information, please contact:*  
*Jessica Emerson, LMSW, Esq.*  
*Director, Human Trafficking Prevention Project*  
*jemerson@ubalt.edu*

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[he properties and explanations of the concept of agency and its impacts](#) (detailing how "agency is a causal pathway to facilitating social and emotional wellbeing, [which] flows from a sense of control over one's own life.").

<sup>8</sup> Mindful Musings, *Addressing Mental Health & Trauma: The Power of Economic Stability* (2023),

<https://medium.com/@MindfulMusingsPsychology/addressing-mental-health-trauma-the-power-of-economic-stability-8faafa1393f7> (highlighting that, "[w]hen basic needs like food, shelter, and safety are not secured, individuals are more likely to remain in a heightened state of anxiety, impeding their ability to confront and work through traumatic memories.").

<sup>9</sup> Cameron Kimble & Ames Grawert, *Collateral Consequences and the Enduring Nature of Punishment*, Brennan Center for Justice (Jun. 2021), <https://www.brennancenter.org/our-work/analysis-opinion/collateral-consequences-and-enduring-nature-punishment> (reporting that, as of 2018, 80 percent of employers conduct background screening on candidates for full-time positions).

<sup>10</sup> *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, U.S. Commission on Civil Rights 1, 49 (June 2019), <https://www.usccr.gov/files/pubs/2019/06-13-Collateral-Consequences.pdf> (citing that about 30 percent of U.S. workers now need licenses, which is a five-fold increase since the 1950's); *see also*, *FAQs Criminal History Record Checks*, Maryland Board of Nursing, <https://mbon.maryland.gov/Documents/FAQs%20CHRC%2012.16.pdf> (noting that Maryland requires criminal history checks for all RN, LPN, and CNA applicants).

<sup>11</sup> MD CRIM. PRO. ANN. § 10-105(e)(4)(i) (West, 2023).

<sup>12</sup> MD CRIM. PRO. ANN. § 10-105(a)(3), (c)(1) (West, 2023).

<sup>13</sup> MD CRIM. PRO. ANN. § 6-220(i)(3) (West, 2023) (describing how, after the fulfillment of the probation conditions ordered by the court, the defendant "shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law because of conviction of a crime,").

<sup>14</sup> MD CRIM. PRO. ANN. § 6-220(e)(1)(iii) (West, 2023) (requiring the court to impose participation in a drug and alcohol treatment program on anyone for whom the court has stayed the entry of judgment and placed on probation before judgment).

<sup>15</sup> MD CRIM. PRO. ANN. § 6-220(f)(1) (West, 2023) (prohibiting the court from placing a defendant to do so again if, within the preceding 10 years, the defendant has been convicted of driving while impaired or driving under the influence or has received a previous PBJ for this offense).

# **SB 118 - Criminal Procedure - Expungement and Shie**

Uploaded by: Kam Bridges

Position: FAV

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

## Testimony in Support of Senate Bill 118

### **Criminal Procedure - Expungement and Shielding - Probation Before Judgment for Driving While Impaired or Under the Influence**

TO: Hon. William C. Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Job Opportunities Task Force

DATE: January 25, 2024

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. **JOTF supports Senate Bill 118, which would allow individuals to file for expungement and shielding of records for driving while impaired or under the influence if they received a probation before judgment.**

Probation before judgment is widely used by judges in Maryland to give first-time and nonviolent offenders the benefit of probation without the burden of a criminal conviction on their record. Often, PDJ recipients are young people who go on to live highly successful lives that are beneficial to society because they were allowed that second chance.

Operating a vehicle while impaired is clearly a serious offense that has the capacity to hurt both the driver and anyone else on the road. Supporting this bill, however, is not the same as allowing bad actors to avoid consequences. For many individuals, just being arrested is a harrowing enough experience that it creates a permanent shift in their behavior and they would never even consider in engaging in that type of behavior again. We trust judges to be able to recognize the truly contrite individuals who will no longer be a danger to others, hence why PBJs exist in the first place. But for DUI and DWI offenses, even these individuals who have been deemed as worthy of a second chance by a judge do not truly receive a second chance in full, as they are still subject to the consequences of a criminal record. Having a criminal record negatively affects Marylanders job opportunities, housing employment, educational opportunities, public benefits, and stable housing. JOTF believes that a second chance should be just that, a second chance; not a half measure that still imposes the same consequences. Senate Bill 118 will allow contrite individuals to have a true second chance without the burdens of a criminal record.

**For these reasons, JOTF supports Senate Bill 118 and urges a favorable report.**

**For more information, contact:**

Kam Bridges / Senior Public Policy Advocate / [Kam@jotf.org](mailto:Kam@jotf.org)

**Testimony - 2024 - SB 118..pdf**

Uploaded by: Mary Denise Davis

Position: FAV



**NATASHA DARTIGUE**  
PUBLIC DEFENDER

**KEITH LOTRIDGE**  
DEPUTY PUBLIC DEFENDER

**MELISSA ROTHSTEIN**  
CHIEF OF EXTERNAL AFFAIRS

**ELIZABETH HILLIARD**  
DIRECTOR OF GOVERNMENT RELATIONS

## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 118 Criminal Procedure - Expungement and Shielding - Probation**

**Before Judgment for Driving While Impaired or Under the Influence**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: January 23, 2024**

The Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 118.

The Public Defender's Office established a weekly expungement clinic in the NorthWest area of Baltimore and partnered with other organizations to offer an annual event - Back to the Neighborhood: How to Succeed with a Criminal Record." During this time, we came to learn the importance of the availability of expungement and how expungement can change lives.

Since 2007, there have been major changes in the expungement law. Each year, the legislators have introduced modifications and some have been signed into law. These laws have had an impact for so many Maryland residents and will continue to do so for individuals in the years to come.

The Public Defender has advocated for changes to allow our clients to move forward without the burden of the stigma of a criminal record years after the sentence has concluded and punishment has been completed. This stigma comes from more than just the conviction(s) on a person's RAP sheet, but can also include all that is available on Maryland Judiciary Case Search and MDEC. There is also a concern that information that has not been expunged or shielded can be obtained and disseminated by private databases. These traces of charges and convictions can follow individuals decades beyond their involvement in the criminal legal system.

I like to refer to expungement as a form of legal redemption that should be accessible to all who have changed their lives and their stories for themselves and their families. For some clients, the past remains in the past but for many clients it will resurface when they are looking for employment or advancement in their current jobs; looking for better housing opportunities; or looking to further their education.

This bill would allow individuals to file for expungement or shielding who have received a probation before judgment (a non-conviction under Maryland law) for driving while impaired charges under the Transportation Article §21-902 only. It will not include the more serious driving while impaired offenses.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB118.**

**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**

**Authored by: Mary Denise Davis, Chief Attorney of the Pretrial Unit, Baltimore City  
marydenise.davis@maryland.gov, 410-878-8150.**



# **RAP Testimony on SB118.pdf**

Uploaded by: Thomas Higdon

Position: FAV



**Testimony in Favor of Senate Bill 118 - Criminal Procedure - Expungement and Shielding  
- Probation Before Judgment for Driving While Impaired or Under the Influence**

**TO:** Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee

**FROM:** Thomas Higdon, on behalf of Recovery Advocacy Project - Maryland

My name is Thomas Higdon, I live in Reisterstown in District 42, I am a person in recovery, and a member of the state organizing team for the Recovery Advocacy Project. I submit this testimony on behalf of The Recovery Advocacy Project in favor of Senate Bill 118.

The Recovery Advocacy Project (RAP) is a network of people in recovery and impacted family members advocating for policies that support recovery from substance use disorder (aka addiction). Many of our members, including some who've been in recovery for years, have had job offers rescinded, rental applications rejected, or professional licensure denied due to a DUI/DWI on their record. However, given the serious nature of DUI/DWI offenses, we understand that some people may be hesitant to allow these charges to be expunged. Afterall, what if the person relapses and reoffends?

With this in mind, we searched the Maryland Judiciary database, and we pulled every available record under § 21–902 of the Transportation Article (DUI/DWI) since 1990. Here is what we found:

- Most people who get arrested for DUI/DWI do not reoffend. In fact, only 13% of individuals in the dataset were arrested for DUI/DWI more than once.
- Of the small number who did reoffend, 90% of the arrests occurred within seven years of each other (96% at 10 years).

Based on this data, it seems clear that there is only a very small chance that a person receiving an expungement after 10 years will reoffend.

Obviously, there need to be consequences for an offense as serious as DUI/DWI. However, once a decade has passed without reoffending, people deserve a fresh start. For these reasons, The Recovery Advocacy Project – Maryland urges a favorable repost on Senate Bill 118.

**SB 118.pdf**

Uploaded by: John Cox

Position: UNF

**Bill Number: SB 118**  
**Maryland States Attorneys Association**  
**Opposed**

**WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEY'S ASSOCIATION**  
**IN OPPOSITION TO SENATE BILL 118**  
**CRIMINAL PROCEDURE-EXPUNGEMENT AND SHIELDING- PROBATION BEFORE**  
**JUDGMENT FOR DRIVING WHILE IMPAIRED OR UNDER THE INFLUENCE**

The Maryland States Attorneys Association is opposed to Senate Bill 118 Criminal Procedure- Expungement and Shielding- Probation Before Judgment for Driving While Impaired or Under the Influence. This legislation would on many occasions remove the State's ability to seek the proper justice against repeat drunk drivers.

Criminal Procedure §10-105 regarding expungement of Probation Before Judgment and other non-convictions has existed for a very long period of time. It has always carved out the exception to prohibit the expungement of a probation before judgment for a DUI or DWI. There is a very logical and compelling reason for that. DUI is a relatively unique crime from many others in that a person who is caught drinking and driving is often not caught and can easily commit repeat offenses over lengthy periods of time. It is not uncommon at all to have a person with a DUI once every 10 or 12 years. This legislation would remove from the judicial system the ability to know of a prior DUI when a person comes back 10 years later and is doing it again. It is difficult to imagine what would be more important to a Judge in a DUI case than knowing that the person has done it before. The public deserves to be aware of and protected from those who choose to endanger their lives on the roadways by being in control (or lack of control) of a motor vehicle.

On February 24, 2023, a Baltimore County elementary school teacher was killed by a drunk driver as he and his wife were driving home from a date celebrating their anniversary. The person who ran a red light traveling 106 miles an hour killing the teacher was drunk and had his 11-year-old child in his car. The teacher's wife was seriously injured and is still recovering from her injuries. The person who committed this offense had a probation before judgment for a DUI from May of 2012. If this legislation was in place, he could have expunged that probation before judgment and the Judge who sentences the offender would think this was his first instance of drinking and driving. This fact scenario is not an anomaly. It is common.

In addition, as drafted this bill will allow that offender who killed the elementary school teacher to still expunge the prior probation before judgment. CP §10-105 mandates expungement if the person is eligible. Subsection (e)(4) delineates when a person is not eligible. A person cannot get an expungement of a probation before judgment if they are convicted of a crime within three years of the entry of the probation

before judgment which the person seeks to expunge. With this legislation, therefore, a person could expunge a probation before judgment for a DUI (after the ten years) even if they commit another DUI three years and a day after the PBJ and could still expunge the PBJ if they commit a vehicular manslaughter more than three years after.

If this legislation were to pass it would have to be with an amendment to subsection (e)(4). The section could be amended to make a person not entitled to expungement if they have been convicted of an offense since the probation before judgement and prior to the application for expungement.

The Maryland States Attorneys Association asks you to continue the endeavor to protect the citizens of this State on our roadways by giving an unfavorable report to Senate Bill 118.

**sb118.pdf**

Uploaded by: Linda Miller

Position: INFO

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Matthew J. Fader  
Chief Justice

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 118  
Criminal Procedure – Expungement and Shielding – Probation  
Before Judgment for Driving While Impaired or Under the  
Influence  
**DATE:** January 18, 2024  
(1/25)

**COMMENT PAPER**

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The Judiciary respects the separation of powers doctrine and recognizes that setting the scope of expungable offenses is a legislative prerogative. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such policy matters.

We write to make note of certain aspects of this legislation that may not be readily apparent to ensure awareness of its full impact. Expungement impacts the court's ability to fashion appropriate sentences in that it deprives judges of relevant information should there be a subsequent offense. It will be more difficult to make informed decisions, including as to the need for substance abuse treatment, without access to a defendant's history of all prior offenses. This would deprive the court of relevant information and public safety may be put at an increased risk as a result. Moreover, impaired driving offenses are statutorily subject to enhanced penalties for repeat offenders. It is hard to apply those provisions without access to information about prior offenses. Further, it is unclear what "discharged from probation" means on page four and whether that discharge must be successful.

Finally, this bill will require additional resources for the Judiciary. The Judiciary anticipates a high demand related to petitions for expungement and petitions to shield. The data provided in this note only represents two fiscal years. However, if this legislation were to pass there would be an exponential number of charges that would qualify for expungement and shielding.-To account for that, the Judiciary anticipates a minimum of **16** new positions would be needed in the District Court, another **3** new positions would be needed in the circuit courts to handle the increased workload. The

total of **19** new positions will result in approximately **\$ 1,264,737.00** in additional personnel costs and other operational expenses in the first full fiscal year.

cc. Hon. C. Anthony Muse  
Judicial Council  
Legislative Committee  
Kelley O'Connor



# **SB0118 - MVA - Expungement and Shielding - Probat**

Uploaded by: Patricia Westervelt

Position: INFO

January 25, 2024

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
2 East, Miller Senate Office Building  
Annapolis, MD 21401

***Re: Letter of Information – Senate Bill 118 – Expungement and Shielding - Probation  
Before Judgment for Driving While Impaired or Under the Influence***

Dear Chair Smith and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following letter of information for the Committee's consideration on Senate Bill 118.

Senate Bill 118 makes certain alterations to an individual's ability to pursue expungement of certain misdemeanor and felony records. Among those offenses in the proposed legislation is a violation of § 21-902 of the Transportation Article, which covers driving under the influence of alcohol.

The MDOT Motor Vehicle Administration (MVA) maintains driving records that can include notations of convictions for certain offenses. The maintenance and expungement of these driving records are controlled by the Transportation Article and by the Public Information Act.

Given current law, MDOT does not interpret Senate Bill 118 as applying to records maintained by MVA; however, should that be the intent, this could potentially establish a conflict in its lack of clarity on scope of records. To be compliant with the interstate driver's compact and for other federal purposes regarding commercial driver's licenses, the MVA must maintain appropriate record keeping for drunk driving offenses.

The Maryland Department of Transportation respectfully requests the Committee consider this information during its deliberations of Senate Bill 118.

Respectfully submitted,

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