

2024-02-01 SB 11 (Support).pdf

Uploaded by: Adam Spangler

Position: FAV

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February 1, 2024

TO: The Honorable Will Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Tiffany Johnson Clark
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 11 – Criminal Procedure – Partial Expungement (**Support**)

The Office of the Attorney General (OAG) urges the Judicial Proceedings Committee to give **Senate Bill 11 – Criminal Procedure – Partial Expungement** sponsored by Senator Jill Carter a favorable report. Senate Bill 11 authorizes the partial expungement of eligible charges within a unit if one or more of the charges is ineligible and establishes procedural requirements for partial expungements.

Under current law, when a defendant has multiple counts or cases from the same incident, the defendant is only eligible for expungement if the entire “unit of prosecution” is eligible for expungement. For example, an individual is charged with drunk driving and illegal possession of a firearm. The individual goes to court and pleads to the firearm charge, but the State noll prosses the drunk driving charge. The individual cannot expunge the otherwise-expungement-eligible noll prossed drunk driving charge because it is from the same “unit of prosecution” as the non-expungement-eligible firearm charge.

Without an opportunity to expunge a charge when the charge become eligible for expungement, additional barriers are created for individuals attempted to successfully reenter society and their communities, such as: obtaining employment, housing, and other social services that have been shown to reduce recidivism rates. Studies show that obtaining employment after an individual is released from a correctional facility is a key factor in reducing recidivism.

For the foregoing reasons, the Office of the Attorney General urges a favorable vote on **Senate Bill 11**.

SB0011_FAV_HOPE.pdf

Uploaded by: Antoin Quarles

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

TO: Members of the Senate Judicial Proceedings Committee and House Judiciary Committee

FROM: Antoin Quarles, Executive Director

H.O.P.E. empowers men and women to transition from incarceration to community successfully and permanently. We help connect returning citizens with practical matters to remove barriers of reentry, such as resources for job and GED training; managing case-worker and other appointments; and developing new coping skills, accountability, life laws, and strong relationships to help deal with the stresses of life outside jail or prison, as well as deeper hurt and trauma. We support(s) Senate Bill 11/ House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

Under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges’. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e. “not guilty” verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider seeks to do a fingerprint background check, the full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks can not accurately distinguish between a



conviction and a non-conviction, let alone understand the circumstances that led to a “guilty” verdict in the first place.

Senate Bill 11/ House Bill 550 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. We fully support efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

SB0011_FAV_BeccaGardner (1).pdf

Uploaded by: Becca Gardner

Position: FAV

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

FROM: **Becca Gardner**

My name is Becca Gardner. I am a resident of District 35 and a member of the Maryland Alliance for Justice Reform (MAJR). I support Senate Bill 11/ House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

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Senate Bill 11/ House Bill 550 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. We fully support efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

SB0011_FAV_BobbiLewisClark (1).pdf

Uploaded by: Bobbie Lewis-Clark

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11

Criminal Procedure - Partial Expungement

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

DATE: February 1st, 2024

FROM: Bobbi Lewis-Clark

My name is Bobbi Lewis-Clark, and I have been a resident of District 45 for over seven years. I currently work as a staff member at The Center for Urban Families (CFUF). I support Senate Bill 11 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

The Unit Rule directly impacts me as I have charges over 10 years old that I can not get expunged because one charge in my unit of charges is not eligible for expungement. This has significantly hindered my ability to secure employment, apartments, job advancement, degrees, and much more.

Senate Bill 11 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. Passing this bill would help me and others in my situation who have backgrounds that changed their lives but are punished for those things over and over again. For these reasons, we respectfully urge a favorable report.

SB0011_Partial_Expungement_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0011

Partial Expungement and Maryland Judiciary Case Search

Bill Sponsor: Senator Carter

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Aileen Alex, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of SB0011 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

SB0011 builds on the REDEEM Act of 2023. The REDEEM Act reduces the waiting period for non-violent convictions' expungements. It cuts wait times from ten years to five for eligible misdemeanors. However, Maryland's "unit rule" prohibits expungement of eligible charges if all charges within a unit are not eligible for expungement. SB0011 offers partial expungement for eligible offenses even if another charge arising out of the same incident, transaction, or set of facts is not eligible for expungement.

For the convicted individual, partial expungement offers better chances for housing, education, and employment. This, in turn, reduces the impact on families and children who stand to benefit from a more successful reentry of the former offender.

For the state, SB0011 reduces the impact of discrimination in our criminal justice system that results in multiple and harsher sentences that appear to be race related. In addition, a successful reentry aids in keeping an individual from becoming a repeat offender. Thus, a more successful reentry could mean avoided costs associated with re-incarceration and the support families would need who were financially dependent on this individual.

The Maryland Legislative Coalition continues to advocate for this and similar bills that increase chances for a successful reentry for former offenders and chip away at the injustice evidenced in our incarceration rates.

We support this bill and recommend a **FAVORABLE** report in committee.

SB 11 Favorable Testimony Maryland Legal Aid.pdf

Uploaded by: Charlotte Ahearn

Position: FAV



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

February 1, 2024

Senator William C. Smith, Jr.
Chairman, Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: Testimony Supporting Senate Bill 11 - Criminal Procedure – Partial Expungement

Dear Chairman Smith and Members of the Committee:

Thank you for the opportunity to provide testimony in support of this important bill, which will finally eliminate the so-called “unit rule,” which prevents too many deserving expungement candidates from receiving justice. Maryland Legal Aid (MLA) submits this testimony at the request of Senator Jill P. Carter and urges passage of the bill.

MLA is a non-profit law firm that provides free civil legal services to tens of thousands of Maryland’s low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including criminal record expungements, which remove barriers to obtaining child custody, housing, a driver’s license, and employment.

Senate Bill 11 will directly benefit your constituents and thousands of Maryland families—particularly those in communities subject to over-policing and other manifestations of systemic oppression. It will dramatically expand access to justice and employment opportunities for low-income Marylanders, producing a return on investment that benefits all of us.

Senate Bill 11 permits expungement of one or more charges that are otherwise eligible for expungement, despite being a part of a “unit.” The “unit rule” significantly limits expungement for otherwise eligible cases or charges that did not result in a conviction. As a result, individuals are permanently saddled with lengthy records that are difficult to decipher and easy to misunderstand. MLA clients have lost jobs or been overlooked during the hiring process because an employer saw charges for which the client was never convicted. Similarly, landlords often reject potential tenants for related reasons.

Additionally, the practice of tacking-on, stacking, or overcharging individuals with a multitude of criminal offenses continues to be studied, and is shown to be commonly implemented throughout the country. The Final Report on Racial Justice in Prosecution (“the Report”), published by the Baltimore City State’s Attorney’s Office and researchers at the University of Maryland and Harvard University in 2022, explained that criminal cases almost always have a multitude of charges and/or other stand-alone cases that never result in prosecution or in a conviction.

The Report asserts a pattern of overcharging because most defendants face multiple charges but are only convicted on a single charge, if any at all. The Report urged prosecutors to “care to ensure that initial charges do not involve bringing more and greater chargers” than one “can prove at trial – solely to give an advantage in plea bargaining.” 93% of all charges or cases were reduced (according to this report). In multiple charge cases, virtually all defendants receive a reduction in the number of charges.

Nancy La Vigne, Ph.D., the Director of the National Institute of Justice stated, “successful reentry is measured over time and the ability of a person to expunge their criminal record, where appropriate, can be critical to their ability to move forward.” Without the ability to expunge charges that never resulted in a conviction, MLA clients face countless collateral consequences and punitive results, continuing the lifetime sentence of the inability to seek work or housing.

The ‘unit rule’ is counterintuitive, contradictory, and not rehabilitative. Criminal records are a cause and consequence of poverty. When an individual successfully completes their sentence, their debt to society is paid. And yet Marylanders carry their case records as a scarlet letter, impacting the most critical aspects of their day-to-day lives, and those of their family members. Employment and housing reduces recidivism, stabilizes families, and empowers communities. Resulting tax revenues do the same.

Senate Bill 11 disrupts the many cycles of systemic oppression, allowing your constituents the opportunity to better themselves, their families, and their communities. It provides a second chance and increases opportunities while protecting public safety.

Thank you for providing MLA the opportunity to comment on this vital piece of legislation. Maryland Legal Aid strongly supports Senate Bill 11.

Charlotte Ahearn, Esq.
Community Lawyering Initiative
Maryland Legal Aid

SB0011_FAV_CFUF.pdf

Uploaded by: Christopher Dews

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11

Criminal Procedure - Partial Expungement

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

DATE: February 1st, 2024

FROM: Christopher Dews, Policy Consultant

The Center for Urban Families (CFUF) advocates for legislative initiatives to strengthen urban communities by helping fathers and families achieve stability and economic success. CFUF supports Senate Bill 11 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, [71% of Maryland's prison population is black](#) (pg.20), the highest in the nation, and [one out of three](#) Marylanders returning from incarceration return to Baltimore City, where CFUF is stationed. The Department of Justice has [found](#) high recidivism rates among returning citizens, with half of all returning citizens recidivating within three (3) years and 60 percent recidivating within five (5) years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: [over 60 percent of formerly incarcerated persons remain unemployed](#) one year after their release. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

Under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges’. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e. “not guilty” verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider seeks to do a fingerprint background check, the full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks can not accurately distinguish between a



conviction and a non-conviction, let alone understand the circumstances that led to a “guilty” verdict in the first place.

Law enforcement often takes a shotgun approach, charging individuals with a litany of crimes, estimating that at least one will stick or push a defendant to take a plea deal to lessen the penalty or incarceration length. Thus, there is no real way to know if the individual committed the crimes on the record, yet the litany of charges remains in CJIS for public view via a background check.

During the 2020 Legislative Session, the Maryland General Assembly passed [HB1336 \(Chapter 31 of 2021\)](#), limiting the Maryland Judiciary Case Search from referring to certain non-convictions but *not allowing* expungement for eligible charges within a unit. Thus, the unit rule remains the strongest barrier to criminal record expungement, ensuring that any involvement with the criminal legal system will scar them permanently, even if proven innocent of most charges.

For more than a decade, the courts have often argued that the repeal of the unit rule isn't possible due to the limitations of technology, yet have worked with savvy attorneys to manipulate non-expungeable dockets as was reported in [Deputy Winkler's Case](#) in 2020, where the deputy ‘disappeared’ a rape charge against him that was part of a unit. Brian Thompson, his attorney, told [The Daily Record](#) that he has worked out similar plea agreements in previous cases involving sexual offenses [which are not expungeable]. He said he developed the idea of using plea deals to wipe out entire dockets 10 to 15 years ago to combat the “unfair nature of the expungement statute” because it does not allow for the removal of individual charges. If this can be done for law enforcement, which should be held to a higher standard as agents of justice, there must be a way for Maryland to allow for partial expungement for its citizenry.

Senate Bill 11 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. CFUF fully supports efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

SB0011_FAV_CFUF-SignOn.pdf

Uploaded by: Christopher Dews

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

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

DATE: February 1st, 2024

FROM: Christopher Dews, Policy Consultant

The Center for Urban Families (CFUF) advocates for legislative initiatives to strengthen urban communities by helping fathers and families achieve stability and economic success. CFUF supports Senate Bill 11 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, [71% of Maryland's prison population is black](#) (pg.20), the highest in the nation, and [one out of three](#) Marylanders returning from incarceration return to Baltimore City, where CFUF is stationed. The Department of Justice has [found](#) high recidivism rates among returning citizens, with half of all returning citizens recidivating within three (3) years and 60 percent recidivating within five (5) years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: [over 60 percent of formerly incarcerated persons remain unemployed](#) one year after their release. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

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For more than a decade, the courts have often argued that the repeal of the unit rule isn't possible due to the limitations of technology, yet have worked with savvy attorneys to manipulate non-expungeable dockets as was reported in [Deputy Winkler's Case](#) in 2020, where the deputy ‘disappeared’ a rape charge against him that was part of a unit. Brian Thompson, his attorney, told [The Daily Record](#) that he has worked out similar plea agreements in previous cases involving sexual offenses [which are not expungeable]. He said he developed the idea of using plea deals to wipe out entire dockets 10 to 15 years ago to combat the “unfair nature of the expungement statute” because it does not allow for the removal of individual charges. If this can be done for law enforcement, which should be held to a higher standard as agents of justice, there must be a way for Maryland to allow for partial expungement for its citizenry.

Senate Bill 11 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. CFUF fully supports efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

The Undersigned Organizations Support House Bill 550/ Senate Bill 11

1. The Center for Urban Families
2. Maryland Legal Aid
3. The University of Baltimore School of Law
4. Office of the Public Defender
5. Maryland Alliance for Justice Reform
6. Maryland Volunteer Lawyer’s Service
7. Out for Justice
8. Maryland Justice Project
9. Life After Release
10. Job Opportunities Task Force
11. Baltimore Action Legal Team
12. Maryland Community Action Partnership
13. The People’s Commission to Decriminalize Maryland
14. Maryland Nonprofits
15. Public Justice Center



25 YEARS OF SEEDING LEGACIES FOR THE FUTURE

- 16. Helping Ourselves to Transform
- 17. Marian House
- 18. Homeless Persons Representation Project
- 19. Helping Oppressed People Excel (H.O.P.E.)

- 20. Glen Rosenberg
- 21. Urban Smart
- 22. Cornerstone Community Housing
- 23. Baltimore Harm Reduction Coalition
- 24. Court Watch PG
- 25. Becca Gardner



MARYLAND ALLIANCE FOR JUSTICE REFORM
Working to end unnecessary incarceration and build strong, safe



MARIAN HOUSE



BUILDING COMMUNITY TOGETHER



25 YEARS OF SEEDING
LEGACIES FOR THE FUTURE



COURTWATCH PG





25 YEARS OF SEEDING
LEGACIES FOR THE FUTURE

COB Letter of Support Senate Bill 0100 1.31.24.pdf

Uploaded by: City Council Bowie

Position: FAV



City of Bowie

15901 Fred Robinson Way
Bowie, Maryland 20716

January 31, 2024

Judicial Proceedings Committee
Maryland State Senate
c/o Senator William C. Smith, Jr.
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Subject: Letter of Support for Senate Bill 0100 - Addressing Organized Retail Theft

Dear Senator Smith,

I am writing on behalf of the City Council of the City of Bowie to express our strong support for Senate Bill 0100, a vital piece of legislation aimed at addressing organized retail theft in Maryland. The bill provides essential provisions that enable the prosecution of multiple thefts committed by the same person in multiple counties under one scheme or continuing course of conduct and establishes measures to combat organized retail theft.

Organized retail theft poses a significant threat to businesses and communities across the state. Senate Bill 0100 takes a proactive stance by allowing for the joining and prosecution of multiple thefts committed by the same person in different counties, streamlining legal procedures and ensuring a more effective response to these criminal activities.

The provision prohibiting a series of thefts from retail merchants over a certain period, with an aggregate value exceeding a specified amount, demonstrates a commitment to curbing organized retail theft and protecting businesses from substantial losses. By addressing the issue at its core, this legislation contributes to a safer and more secure retail environment for businesses and consumers alike.

We also appreciate the provision in the bill that ensures a conviction under this Act merges with another conviction for sentencing purposes, streamlining legal processes and ensuring consistency in the application of justice.

As representatives of the City of Bowie, we believe that Senate Bill 0100 aligns with our commitment to promoting a safe and thriving business community. We urge the members of the Judicial Proceedings Committee to support this legislation and contribute to the efforts to combat organized retail theft in our state.

Thank you for your attention to this important matter, and we appreciate your continued efforts to address issues that impact the safety and prosperity of our community.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy J. Adams". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bowie City Council
Timothy J. Adams
Mayor

2024.01.31 CCJR SB 11 FAV .pdf

Uploaded by: E. Flannery Gallagher

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law

DATE: January 31, 2024

The University of Baltimore School of Law’s Center for Criminal Justice Reform (“the Center”) is dedicated to supporting community-driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center supports Senate Bill 11.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a criminal record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society.

The impact of an arrest or conviction record on individuals, families and communities is staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes. These impacts span numerous areas central to a person’s ability to survive and thrive, impeding access to stable housing, education, healthcare, voting, occupational licensing, rights related to the parent-child relationship and more.

More than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a criminal record. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

Under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges.’ Under current law, if a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This law prevents charges that would otherwise be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e., “not guilty” verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider

obtains a fingerprint background check, a person's full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks cannot accurately distinguish between a conviction and a non-conviction—let alone understand the circumstances that led to a “guilty” verdict in the first place.

Senate Bill 11 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. The Center fully supports this important bill as part of a broader set of efforts to remove barriers to employment, education, housing, and more for Marylanders with criminal records who have paid their debt to society. For these reasons, we respectfully urge a favorable report on SB 11.

SB0011_FAV_GaryBaynor (1).pdf

Uploaded by: Gary Baynor

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

TO: Members of the Senate Judicial Proceedings Committee and House Judiciary Committee

FROM: Gary Baynor

My name is Gary Baynor, and I support Senate Bill 11/ House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement for entrepreneurs. I live in District 46 (East Baltimore) and am a recent graduate of the Time Organization Program. I came home as part of the Juvenile Restoration Act and had been trying to get on my feet ever since.

I’m 47 years old now but was 18 years old when incarcerated. I spent 27 years inside and left Patuxent in 2022. I understand that my current charges were terrible, which were from when I was a child growing up in a less-than-stable environment.

Today, I can only get some jobs, but I found work through the services of the JRA. Since then, I've been doing demolition with Mason-Dixon Companies and am being trained in Carpentry, Electrician, and Plumbing through HTP Homes.

My end goal right now is to stay out of the streets and continue to build a clothing business that I started during my incarceration. I'm trying to regain my LLC and have a copyright for all my designs. It's challenging to acquire loans for my small business and access my LLC because of my record. The Unit Rule is impacting my ability to secure access to participate in the economy properly. Which, of course, is why many return to the system. We've paid our debts to society, and when we try to get into the business world, we remain blocked.

Senate Bill 11/ House Bill 550 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. Everyone must work if they expect to support themselves and their families. Maryland law shouldn’t be the reason returning citizens are locked out of employment over decades *after* they have served their time. Please pass this bill; I want to move on with my life and get the chance to get back on track. For these reasons, I respectfully urge a favorable report.

MVLS Testimony SB0011.pdf

Uploaded by: George Townsend

Position: FAV

Susan Francis
EXECUTIVE DIRECTOR

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Maryland Volunteer Lawyers Service urges the Judicial Proceedings Committee to grant Senate Bill 0011 a favorable report.

MVLS's Workforce Development Project provides legal services to individuals completing workforce training programs funded by the Baltimore City Mayor's Office of Employment Development, and in that capacity, we perform hundreds of expungement analyses per year on behalf of individuals who have previously been charged with criminal offenses. Most of our clients have some charges on their records that can be expunged, and the reduction of their records opens greater opportunities for employment, rental housing, and government benefits.

Very few of our clients, however, walk away from expungement services with their entire public record expunged. Many criminal charges are eligible for expungement under Maryland law, but many are not, and the extensive eligibility requirements of the expungement statutes prevent many charges from ever coming off an individual's record. One of these limitations is the unit rule, which establishes that, when multiple charges arise from a single incident, any one charge being ineligible for expungement renders all related charges ineligible as well.

The harm caused by this rule is obvious to anyone who has ever reviewed a criminal record report. When an individual is arrested for alleged criminal conduct, they are often charged with multiple crimes, which can include a mix of misdemeanors and felonies, or violent and nonviolent offenses. Oftentimes a person can be found guilty of some of these charges but acquitted of other, more serious offenses. Often some charges in a unit will be subject to a nolle prosequi - not prosecuted by the state at all, as the prosecutor elects to proceed on only some of the charged crimes. Under the unit rule, any of the charges in a case resulting in a disposition that is not eligible for expungement means that all the charges become ineligible, even the charges that were never proven, plead to, or even prosecuted.

In our work with Maryland residents training for new careers after criminal convictions, MVLS attorneys have found that the individuals with the highest chances of starting new jobs, finding stable housing, and building a sustainable future are those who are able to clear the most cases from their criminal records. In instances where the state of Maryland has determined that a particular criminal conviction should be eligible for expungement after a particular period, or that a particular charge should be expunged because it resulted in a disposition other than guilt, preventing those records from being expunged merely because they arose out of the same incident as an ineligible charge does nothing to further the ends of justice. It instead serves as a weight upon the record of individuals who are trying to move on, to build better futures and to participate in their communities.

We urge the committee to issue a favorable report for Senate Bill 0011. Thank you for your consideration.

HPPB SB 11 Unit Rule Testimony- FAVORABLE.pdf

Uploaded by: Jessica Emerson

Position: FAV

Testimony of the Human Trafficking Prevention Project The University of Baltimore School of Law

BILL NO: Senate Bill 11
TITLE: Criminal Procedure – Partial Expungement
COMMITTEE: Judicial Proceedings
HEARING DATE: February 1, 2024
POSITION: **FAVORABLE**

Senate Bill 11 would repeal Maryland’s overly punitive ‘unit rule’ provision by amending the state’s expungement law to allow the expungement of eligible non-conviction charges within a unit of criminal charges. The Human Trafficking Prevention Project supports this bill because it will enhance the effectiveness of Maryland’s expungement framework by providing improved access to criminal record relief for all Marylanders, including sex workers and survivors of human trafficking.

Currently, Maryland’s “unit rule” prohibits the expungement of otherwise eligible charges such as acquittals and other favorable dispositions if any other charge within that same “unit” of criminal charges is ineligible for expungement. This means that many individuals struggle with the collateral consequences of a lengthy criminal record, despite the fact that they may not have been convicted of the majority of the offenses they were charged with. Senate Bill 11 drastically reduces the electronic visibility of non-convictions, which would increase the probability that people will be hired, receive loans and obtain housing because many employers and others generally only look to the electronic record and do not go to the courthouse to review the paper file. The paper file in the courthouse however, would still list all of the charges and be available for public viewing and/or in a subsequent criminal prosecution.

It is also important to note that criminal records are both a predictor *and* the result of exposure to human trafficking. Data recently obtained from a national survey of both sex and labor trafficking survivors echoes the need for access to broader criminal record relief, with 91% of survivors reporting having been arrested at some point in their lives. Of those 91%, over 40% reported being arrested over nine times or more, while over 50% stated that every single arrest on their record was a direct result of their trafficking experience. Like all individuals with a criminal record, criminalized survivors of trafficking similarly struggle to obtain safe housing and gainful employment. For this population however, these consequences carry with them the additional risk of continued exploitation by a trafficker.

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. SB 11 would further this goal by expanding the availability of expungement in the state, which would significantly lessen the trafficking risk faced by sex workers and survivors of human trafficking alike. For these reasons, the Human Trafficking Prevention Project supports SB 11, and respectfully urges a favorable report.

*For more information, please contact:
Jessica Emerson, LMSW, Esq.
jemerson@ubalt.edu*

SB 11 - Criminal Procedure - Partial Expungement -

Uploaded by: Kam Bridges

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Testimony in Support of Senate Bill 11

Criminal Procedure - Partial Expungement

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

FROM: Job Opportunities Task Force

DATE: February 1, 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 11, which would allow for partial expungement for a certain eligible offense even if another charge arising out of the same incident, transaction, or set of facts is not eligible for expungement.**

The number of Americans with a criminal history is on the rise. More than one-third of the adult working-age population has a criminal record. According to the National Employment Law Project, 1 in 3 Americans (70 million) have an arrest record that will appear in a routine criminal background check in hiring. Nearly 1.5 million Marylanders struggle to secure employment with a criminal record. This challenge falls disproportionately on black and brown communities, the poor, and the homeless. Criminal records can serve as both the cause and consequence of poverty. Workers and job seekers with a criminal background apply for jobs for which they are well qualified, but are not considered due to criminal records. Technological advances have made access to criminal background information easier, which creates often insurmountable barriers to obtaining employment, housing, education, and other critical resources. It is well established that black men and women are more likely to be arrested and convicted than white men and women; and will be more likely than their white counterparts to have a criminal record. The impact of a criminal record is exacerbated among Black workers, who already experience racial discrimination in the labor market. Studies have found that even black job seekers without a criminal record are less likely to receive a job call back for an interview than white job seekers with a criminal record.

In an era of rising child care costs, ballooning health care costs, the ever increasing housing and rental markets, and prohibitively expense costs of higher education, having a well-paying job is a necessity. The days where financial freedom was accessible to a significant portion of Marylanders is long gone, and the percentage of Marylanders who can hope for even short term financial security is dwindling. Taking away the ability of Marylanders to access gainful employment will exacerbate every single issue that Maryland is struggling with, especially homelessness and public safety. When Marylanders cannot support themselves the only outcome is the deterioration of its people and the state as a whole. This is not a potential outcome; this is an inevitability.

In the past, the criminal justice system could be distilled to one phrase “You do the crime, you do the time.” The time was limited based on the nature of the offense. Once you completed your sentence, and paid your debt to society you were freed. There is no completing the sentence now. In 2024, anyone can access anyone’s criminal records in a smartphone within seconds. Easily accessible criminal records mean

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

that for impoverished individuals, once you finish your time in incarceration, your true sentence is only just beginning. And for thousands of Marylanders, that sentence is a lifetime of hardship and struggle which can be traced back to an inability to support themselves.

There is no reason to needlessly increase the burden of these Marylanders. Having just the inexpungible offenses on Marylanders' records is more than enough to ensure they face the consequences for their choices. Preventing eligible offenses from being expunged as well is needlessly cruel. It provides a negligible amount of increased accountability while being a significant hindrance for individuals to actually turn their lives around and refrain from the same actions that led to their incarceration in the first place. This helps no one, but hurts everyone.

For these reasons, JOTF supports Senate Bill 11 and urges a favorable report.

For more information, contact:

Kam Bridges / Senior Public Policy Advocate / Kam@jotf.org

Bill to support Partial Expungement.pdf

Uploaded by: Linda Green

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

FROM: Dr. Linda Green

Member, American Public Health Association

I, Linda D. Green MD, am writing to support support(s) Senate Bill 11/ House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement. I have been working with Life After Release for 5 years in Prince George’s County and am a 40+ year member of the American Public Health Association. Two important policies of the APHA were passed in the last few years to address the public health consequences of law enforcement violence and the long term effects of the carceral system. This bill attempts to remove some of the barriers for formerly incarcerated persons as they build new lives.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

Under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges’. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e. “not guilty” verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider seeks to do a fingerprint background check, the full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks can not accurately distinguish between a conviction and a non-conviction, let alone understand the circumstances that led to a “guilty” verdict in the first place.

Senate Bill 11/ House Bill 550 addresses the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible charges within a unit of charges. We fully support efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

SB11_MAP_FAV.pdf

Uploaded by: Mark Huffman

Position: FAV



Member Agencies:

211 Maryland

Anne Arundel County Food Bank

Baltimore Jewish Council

Behavioral Health System Baltimore

CASH Campaign of Maryland

Energy Advocates

Episcopal Diocese of Maryland

Family League of Baltimore

Fuel Fund of Maryland

Job Opportunities Task Force

Laurel Advocacy & Referral Services,
Inc.

League of Women Voters of Maryland

Loyola University Maryland

Maryland Center on Economic Policy

Maryland Community Action
Partnership

Maryland Family Network

Maryland Food Bank

Maryland Hunger Solutions

Paul's Place

St. Vincent de Paul of Baltimore

Welfare Advocates

Marylanders Against Poverty

Kali Schumitz, Co-Chair

P: 410-412- 9105 ext 701

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Mark Huffman, Co-Chair

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TESTIMONY IN SUPPORT OF SB 11

Criminal Procedure – Partial Expungement

Judicial Proceedings

February 1, 2024 1pm

Submitted by Kali Schumitz and Mark Huffman, Co-Chairs

Marylanders Against Poverty (MAP) strongly supports SB 11, which would allow for partial expungement for eligible offenses even if another charge arising out of the same incident is not eligible for expungement.

The number of Americans with a criminal history is on the rise. More than one-third of the adult working-age population has a criminal record. According to the National Employment Law Project, 1 in 3 Americans (70 million) have an arrest record that will appear in a routine criminal background check in hiring. Nearly 1.5 million Marylanders struggle to secure employment with a criminal record. This challenge falls disproportionately on black and brown communities, the poor, and the homeless. Criminal records can serve as both the cause and consequence of poverty. Workers and job seekers with a criminal background apply for jobs for which they are well qualified but are not considered due to criminal records. Technological advances have made access to criminal background information easier, which creates often insurmountable barriers to obtaining employment, housing, education, and other critical resources. It is well established that black men and women are more likely to be arrested and convicted than white men and women; and will be more likely than their white counterparts to have a criminal record. The impact of a criminal record is exacerbated among Black workers, who already experience racial discrimination in the labor market. Studies have found that even black job seekers without a criminal record are less likely to receive a job call back for an interview than white job seekers with a criminal record.

In an era of rising childcare costs, ballooning health care costs, the ever increasing housing and rental markets, and prohibitively expense costs of higher education, having a well-paying job is a necessity. The days where financial freedom was accessible to a significant portion of Marylanders are long gone, and the percentage of Marylanders who can hope for even short term financial security is dwindling. Taking away the ability of Marylanders to access gainful employment will exacerbate every single issue that Maryland is struggling with, especially homelessness and public safety. When Marylanders cannot support themselves the only outcome is the deterioration of its people and the state as a whole. This is not a potential outcome; this is an inevitability.

In the past, the criminal justice system could be distilled to one phrase “You do the crime, you do the time.” The time was limited based on the nature of the offense. Once you completed your sentence and paid your debt to society you were freed. There is no completing the sentence now. In 2024, anyone can access anyone’s criminal records in a smartphone within seconds. Easily accessible criminal records mean that for impoverished individuals, once you finish your time in incarceration, your true sentence is only just beginning. And for thousands of Marylanders, that sentence is a lifetime of hardship and struggle which can be traced back to an inability to support themselves.

There is no reason to needlessly increase the burden on these Marylanders. Having just the inexpungible offenses on Marylanders' records is more than enough to ensure they face the consequences for their choices. Preventing eligible offenses from being expunged as well is needlessly cruel. It provides a negligible amount of increased accountability while being a significant hindrance for individuals to actually turn their lives around and refrain from the same actions that led to their incarceration in the first place. This helps no one but hurts everyone.

MAP appreciates your consideration and urges the committee to issue a favorable report for SB 11.

Marylanders Against Poverty (MAP) is a coalition of service providers, faith communities, and advocacy organizations advancing statewide public policies and programs necessary to alleviate the burdens faced by Marylanders living in or near poverty, and to address the underlying systemic causes of poverty.

Testimony - 2024 - SB 11..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 11 Criminal Procedure - Partial Expungement

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 1, 2024

The Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 11.

This bill would allow individuals to file for expungement of the favorable dispositions or otherwise eligible convictions that is currently barred due to §10-107 of the criminal procedure article. §10-107, often referred to as the unit rule, currently prohibits anyone from filing for expungement where just one single charge is not eligible, no matter if all the other charges are favorable dispositions or otherwise eligible convictions.

Since 2007, there have been changes in the expungement law. Each year, the legislators have introduced bills and some have been signed into law. Modifying the unit rule has consistently been a bill introduced over the years. Maybe this year, its time has arrived.

SB 11 will begin to address the over charging by law enforcement. So often in the courts, there will be an array of charges but only one count will move forward. The unit rule in a sense rewards over policing, policing that so often impacts individuals who are marginalized due to poverty. Every single count will stay on the person's record.

Changes in the expungement laws have had an impact on so many Maryland residents and will continue to do so in the years to come. Our Office has come to learn the importance of expanding the availability of expungement.

The Public Defender has advocated for these 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. It also comes from favorable dispositions that are 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.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB11.

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.**

NCADD-MD - 2024 SB 11 FAV - Partial Expungement -

Uploaded by: Nancy Rosen-Cohen

Position: FAV



Senate Judicial Proceedings Committee

February 1, 2024

Senate Bill 11

Criminal Procedure - Partial Expungement

Support

NCADD-Maryland strongly supports Senate Bill 11. NCADD-Maryland has long advocated for policies that help people involved with the criminal justice system avoid some of the unintended collateral damage caused by our drug policies. When people who struggle with substance use disorders get treatment and start the recovery process, criminal records are often huge barriers to success. Obtaining employment and housing is difficult, and sometimes impossible. Without a place to live or a reliable income, some people are much more likely to re-offend and/or return to alcohol and drug use.

Senate Bill 11 will allow people who have more than one charge or conviction to have each evaluated and processed on its own in attempts to expunge them from a person's record. Treating the charges or convictions individually may allow some people to reduce the number of items on their records, reducing the discrimination that so often follows those who have been incarcerated.

These kinds of policy changes are a necessary component to significantly improving our communities. When people have served their time, they should have the opportunities and supports needed to ensure they are able maintain productive lives and livelihoods with their families. Removing some of the barriers to success will also help people with substance use disorders maintain their recovery.

We urge your support of Senate Bill 11.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

SB0011_FAV_CFGC (1).pdf

Uploaded by: Pastor Banks

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

Criminal Procedure - Partial Expungement

FROM: Cornerstone Full Gospel Church - Department of Community Engagement

Cornerstone Full Gospel Church is located in Baltimore (District 46). We have the stated mission of meeting the physical and spiritual needs of the people while fostering discipleship and new engagement in the building of God's Kingdom. We support Senate Bill 11/ House Bill 550 to repeal the "Unit Rule," which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

Under current Maryland law [Criminal Procedure §10-107](#), charges that arise from the same incident, transaction, or set of facts are considered a 'unit of charges'. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e. "not guilty" verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider seeks to do a fingerprint background check, the full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks can not accurately distinguish between a conviction and a non-conviction, let alone understand the circumstances that led to a "guilty" verdict in the first place.

Senate Bill 11/ House Bill 550 addresses the challenges associated with the 'unit rule' by providing for the 'partial expungement' of eligible charges within a unit of charges. We fully support efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

Health Care for the Homeless - FAV SB 11 - Unit Ru

Uploaded by: Vicky Stewart

Position: FAV

**HEALTH CARE FOR THE HOMELESS
TESTIMONY IN SUPPORT OF SB 11
Criminal Procedure – Partial Expungement**

**Senate Judicial Proceedings Committee
February 1, 2024**



Health Care for the Homeless strongly supports SB 11, which would repeal the punitive ‘unit rule’ provision for non-conviction charges by allowing individuals to request the ‘partial expungement’ of eligible charges within a unit.

SB 11 helps end homelessness by reducing barriers to employment and housing. Criminal records, including records of non-convictions, create almost insurmountable barriers to obtaining employment, housing, education, and other critical resources like social safety net programs.¹ As this bill’s Racial Equity Impact Note (REIN) states, “having a criminal history can adversely affect employment prospects which can further influence an individual’s level of income, housing opportunities, and access to quality health care.” Further, the Note states that “[e]mployment is key to stable housing and homeownership and a variety of State and national data show that higher incomes can lead to the stability and consistency necessary to accumulate the various upfront resources needed to buy a home.” Our experience at Health Care for the Homeless corroborates this analysis. In a 2011 Health Care for the Homeless study, which surveyed 429 people who had been released from jail or prison within the past 10 years, respondents most frequently cited the inability to find work (57%) and a criminal record (56%) as the barriers preventing them from accessing stable housing.² As a supportive housing services provider, we see the direct impact that a criminal record can have on an individual’s ability to obtain housing. SB 11 serves to directly eliminate such barriers to housing.

Many individuals have lengthy records with charges that would be eligible for expungement if not for the unit rule. This bill ensures that individuals are not permanently burdened by lengthy records – many times for charges that they did not commit. This challenge falls disproportionately on Black and brown communities, the poor, and the homeless.³

Additionally, the racial impact of a criminal record cannot be overstated. As this bill’s REIN also states, “National and State data consistently show that racial minorities experience disproportionate levels of adversity in the areas of life affected by a criminal record. National studies have found that there is a significant negative effect of having a criminal record on employment outcomes that appears

¹ See American Public Health Association, *Housing and Homelessness as a Public Health Issue* (Nov. 2017), available at <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>.

² Health Care for the Homeless, Inc., *Still serving time: struggling with homelessness, incarceration & re-entry in Baltimore* (October 2011), available at <http://www.hchmd.org/research.shtml>.

³ See The White House, *Economic Perspectives on Incarceration and the Criminal Justice System* (April 2016), available at https://www.whitehouse.gov/sites/default/files/page/files/20160423_cea_incarceration_criminal_justice.pdf.

substantially larger for Black individuals.” We see this racial inequity play out in the clients that we serve and it is part of our mission and vision to correct this injustice.

SB 11 rightly recognizes that individuals should not be penalized or stigmatized for charges that should be expunged but are unable to be removed from a person’s record simply because the charges – including non-convictions-- allegedly arose from the same incident.

Health Care for the Homeless strongly supports SB 11 because it reduces barriers to employment and housing – and so is an important measure that will help reduce the incidence of homelessness. We urge a favorable report by the committee.

Health Care for the Homeless is Maryland’s leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We deliver medical care, mental health services, state-certified addiction treatment, dental care, social services, housing support services, and housing for over 10,000 Marylanders annually at sites in Baltimore City and Baltimore County.

Our Vision: Everyone is healthy and has a safe home in a just and respectful community.

Our Mission: We work to end homelessness through racially equitable health care, housing and advocacy in partnership with those of us who have experienced it.

For more information, visit www.hchmd.org.

SB 11_FAV_Amanuel.pdf

Uploaded by: Yanet Amanuel

Position: FAV



Testimony for the Senate Judicial Proceedings Committee

February 1, 2024

SB 11 Criminal Procedure - Partial Expungement

FAVORABLE

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SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland supports SB 11, which would allow Marylanders to petition for partial expungement by allowing for the expungement of a charge even if one charge or conviction in the unit is not eligible for expungement.

Studies show that employment opportunities can reduce recidivism rates.¹ Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing

A misdemeanor criminal record can and does create a barrier to employment for many Marylanders. More than 80% of U.S. employers perform criminal background checks on prospective employees.² Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including a barber license,³ a cosmetology license,⁴ an electrician license,⁵ professional engineer license,⁶ a landscape architect license,⁷ an interior designer certificate,⁸ and countless others.

¹ See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

² Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management, Alexandria, Va.: Society for Human Resource Management*, 2006.

³ Md. Business Occupations and Professions, Code Ann. § 4-314

⁴ Md. Business Occupations and Professions, Code Ann. § 5-314

⁵ Md. Business Occupations and Professions, Code Ann. § 6-316.

⁶ Md. Business Occupations and Professions, Code Ann. § 14-317.

⁷ Md. Business Occupations and Professions, Code Ann. § 9-310.

⁸ Md. Business Occupations and Professions, Code Ann. § 8-310.

Criminal convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.⁹ Convictions also hinder an individual's access to stable housing and a range of public benefits. A criminal record may bar individuals from residing at certain homes,¹⁰ and exclude individuals from low-income utility payment plans.¹¹

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 11.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

⁹ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

¹⁰ *See for example*, COMAR 35.04.01.04.

¹¹ COMAR 20.31.01.08.

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MARYLAND

SB 11 Testimony.pdf

Uploaded by: Jill Carter

Position: FWA



THE SENATE OF MARYLAND
Annapolis, Maryland 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0011 – Criminal Procedure – Partial Expungement
Before the Judicial Proceedings Committee
On February 1st 2024**

Mr. Chairman, Vice Chair, and Members of the Committee:

Under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges.’ If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged. Established in 1975 and unique to Maryland, the unit rule has allowed the plea-bargaining process to limit expungement access to millions of Marylanders.

Senate Bill 11 allows defendants to file for expungement for charges within a unit, whether at trial or through a plea negotiation.

Plea negotiations make the criminal justice system work. Multiple-count charging documents are commonplace. A first-degree burglary case, for instance, can include several different crimes, such as trespassing, destruction of property, and theft. It is routine to charge all of these crimes instead of only the broader, first-degree burglary, by

itself. Charging these other crimes, lesser-included offenses is like prosecutorial insurance. These counts have fewer elements and are much easier to prove than the flagship count - the burglary. This practice also allows for greater flexibility in the plea negotiation sausage-making. By working a plea to a lesser-included offense, the attorneys can limit the defendant's exposure, reduce the cost and risk for the prosecution at trial, and more carefully tailor an acceptable sentence. The problem is what's left on the criminal record after the plea. The flotsam of the dropped, or nolle pross, counts remains.

The way the law stands now, if someone charged with first-degree burglary, trespass, theft, and destruction of property, takes a plea to theft only, all of the charges, including the first-degree burglary, will remain on the record for public view. The theft may be expungable at some time in the future, but until that happens, the burglary charge will be the first thing an employer sees on a background check. The stigma of the allegation itself remains. Under this bill, however, the defendant can file for expungement of all the dropped counts. The destruction of property can be removed. The trespass can be stricken. The first-degree burglary can be erased. This makes the criminal record simply more accurate.

There is precedent set for this sort of modification. This legislature made a carveout for marijuana from the unit rule in HB0837 in the 2022 session, which made marijuana possession charges eligible for expungement immediately after the sentence is carried out and made it an exception to the unit rule if it was grouped with other charges.

Many states have adopted new or expanded expungement laws, which includes loosening eligibility requirements, with very little public safety concerns and at an immense benefit to those who get their records expunged. According to a study from the Cato Institute, people who receive expungements as a benefit from expanded expungement laws have very low rates of recidivism while also exhibiting much better employment outcomes.

**As such, I urge this committee to give a favorable report on SB0011.
Thank you for your time.**

Respectfully,

Jill P. Carter

SB11.pdf

Uploaded by: John Cox

Position: UNF

Bill Number: SB11
Maryland State's Attorneys' Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATE'S ATTORNEYS'
ASSOCIATION IN OPPOSITION TO SENATE BILL 11- CRIMINAL PROCEDURE-
PARTIAL EXPUNGEMENT

The Maryland State's Attorneys' Association is opposed to Senate Bill 11, Criminal Procedure – Partial Expungement 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 laws which still required some accountability and protection of society. This Bill will take us beyond accountability, require an astronomical expenditure of resources and inhibit just results for those who choose to reoffend.

Senate Bill 11 would eliminate the unit rule within the expungement laws and permit expungement of any particular count within a case even if the person was convicted of an offense or offenses involving the case being addressed. This would make almost every case ever charged in the State of Maryland subject to expungement. It is unquestionably common that if a person pleads guilty in a case, that plea would include a nolle prosequi of counts charged as part of the agreement to plead guilty. If a case goes to trial, it is unquestionably common that a prosecutor will nolle prosequi counts before the case is submitted to a jury to simplify deliberations and avoid confusion with counts which are intertwined with each other. As an example, if a person chose to plead guilty to First Degree Murder, the prosecutor is likely to agree to nolle pros the Burglary or Robbery or First Degree Assault count. If the jury is being handed a First Degree Murder case, the prosecutor is likely to nolle pros the lesser included offenses if the evidence is clear of the completed offense. (For example- the State may submit a Robbery Deadly Weapon count and not submit the Robbery count).

This means that the person who plead guilty to First Degree Murder or was found guilty by a jury of First Degree Murder is now given the authority to expunge the other counts in the case. Expungement would then excise the information regarding the case from the public record and greatly inhibit the criminal justice system from access to information and the ability to share that information. The Bill tries to address the issues raised by the impracticable ability to excise counts from an existing case. This would still unfairly inhibit justice. The Bill would restrict the inspection of the record of the case to a "Criminal Justice Unit". Presumably this means that if a convicted person commits another crime, the prosecutor cannot stand up in court and speak about the persons

prior conviction if they have chosen to have the nolle prossed counts expunged before they commit another crime. In addition, this legislation would even prohibit the provision of a case file of the police department or States Attorneys Office to the convicted person through discovery or the Public Information Act.

The primary issue which apparently is intended to be addressed (limit of public access to nolle prossed counts) has already been addressed by the Legislature through Criminal Procedure §10-301 and §10-401. The charges which are addressed in this Bill have already been directed to be shielded from Maryland Judiciary Case Search.

Finally, the burden in both manpower and financial obligation with this Bill would be astronomical and would practically swallow up the more important functions of the components of the criminal justice system. As previously mentioned, almost every criminal case which has ever existed in Maryland would be eligible. That number is incalculable. The work required in each case to review the records, determine if partial expungement is practicable in the narrative portions and the sequestering of those records (after a hearing in every single case) would be immense.

Maryland has developed to the point that substantial expungement capability and shielding of other records from the public view has been accomplished. This Bill is a step way beyond the practical ability and logic of the reasoning behind the justification for expungement rights already established.

The Maryland State's Attorneys' Association urges an unfavorable report.

sb11.pdf

Uploaded by: Linda Miller

Position: UNF

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 11
Criminal Procedure – Partial Expungement
DATE: January 11, 2024
(2/1)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 11. The legislation proposes to remove the current prohibition on partial expungements found in Criminal Procedure Article § 10-107, commonly referred to as the “unit rule” and permits a person to file a petition for partial expungement when two or more charges arise from the same incident, transaction, or set of facts, and not all of them are eligible for expungement for a police or court record. If the partial expungement of a charge is impracticable due to its inclusion in the statement of charges, the court must order that the official record of the court not be included on the Judiciary’s public website, within records submitted to the Central Repository, and may authorize the State or a political subdivision to maintain the written record without change and limit inspection to a criminal justice unit for legitimate criminal justice purposes.

This bill is unnecessary. HB1336/20, codified at MD Code, Criminal Procedure, § 10-401, already prescribes that the Maryland Judiciary Case Search may not in any way refer to the existence of records of a charge in a case with electronic records if the charge resulted in: (1) acquittal; (2) dismissal; or (3) *nolle prosequi*, except *nolle prosequi* with the requirement of drug or alcohol treatment.

In addition, this bill is unworkable and would create a large fiscal impact on the Judiciary. As noted by the Judiciary in its comments to HB 589 introduced during the 2020 session, this legislation would exponentially increase the number of charges that would be eligible and has the potential to result in a tremendous number of petitions for expungement. If this bill passes, tens of thousands of charges that historically have not qualified for expungement – because there was a conviction or because the charge was one of a unit of charges and all do not qualify for expungement – would now qualify for expungement. The bill appears to be retroactive and could include any charge since the District Court was established in 1971, as well as circuit court expungements going back even further.

While the bill recognizes that in many cases the narrative in the statement of charges will contain information about both the conviction and the charges eligible for partial expungement making partial expungement extremely difficult and labor intensive, the proposed action outlined in the bill to remove references to the case from the court's website and records that are submitted to CJIS raise significant concerns. This may result in the shielding of, or not transmitting to CJIS, convictions that otherwise are part of the official judicial record and should be matter of public record. For example, an individual may be convicted of first degree murder but acquitted of theft. If the narrative in the statement of charges is so intertwined so as to make redaction impossible, which is likely in many cases, the bill requires the case, including the murder conviction, to be shielded and not reported to CJIS. This directly contradicts the concepts of openness and transparency of court records.

That subsection also requires that the charges that are not eligible for expungement, the court shall order that the official record of the court regarding the charges eligible for expungement may not be included on the public website maintained by the Maryland Judiciary. The legislation is vague in that it does not adequately define the phrase "court's website." Eligible charges would be "shielded" on the Judiciary's website and not completely "expunged" from all records. The bill only mentions the shielding on the Judiciary's website' however, the Judiciary also maintains public kiosks in the courthouses where the public can access the same case information that can be requested from a court clerk.

Finally, the shielding aspect of the bill creates issues for post-conviction proceedings—there is no way to parse a post-conviction file between expunged and not expunged material, and expungement deprives a judge of information needed for a holistic understanding of a case.

cc. Hon. Jill Carter
Judicial Council
Legislative Committee
Kelley O'Connor

Expungement - unit rule - senate - 2024 - SB11 UNF

Uploaded by: Lisae C Jordan

Position: UNF



Working to end sexual violence in Maryland

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For more information contact:
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Testimony Opposing Senate Bill 11
Lisae C. Jordan, Executive Director & Counsel
February 1, 2024

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Judicial Proceedings Committee to report unfavorably on Senate Bill 11.

Senate Bill 11 – Expungement of Charges and Unit Rule

Senate Bill 11 would alter the “unit rule” which currently requires that records of related charges remain available together. This issue is particularly relevant in sexual assault cases, where plea agreements to lesser charges are frequently made to spare victims the ordeal of testifying.

Information about past charges is critical for safety planning and informed decision-making. A victim of a person who has previously been charged with sex crimes may take additional precautions. Currently, rape crisis centers can view information about past charges on the Judiciary's website and help victims make informed decisions. SB11 would deprive professionals and the public from this important safety-related informational.

The partial expungement envisioned by Senate Bill 11 would effectively end access to information about many convictions involving sexual assault; shielding is a reasonable alternative. Many sex crimes cases are pled down to simple assault or some other lesser crime. SB11 attempts to address the issue of intertwined facts by removing the records from the court website and Central Repository, but permitting access by law enforcement.

Again, victims and advocates need access to this information to conduct safety planning and this process would deprive them of needed information. If the Committee chooses to report favorably on this bill, MCASA urges amendments to treat partially expunged records the same way that shielded protective orders are – victim advocates should be able to view the entire narrative describing the facts. See Family Law Article §4-512.

**The Maryland Coalition Against Sexual Assault urges the
Judicial Proceedings Committee to report unfavorably on Senate Bill 11**

MCPA-MSA_SB 11 Partial Expungment _Oppose.pdf

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 1, 2024

RE: **SB 11 Criminal Procedure – Partial Expungement**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 11**. This bill provides for the partial expungement of charges under specific circumstances.

MCPA and MSA, while understanding the desire to provide a second chance for persons in certain circumstances, generally oppose legislation that increases the categories for expungement because it could interfere with the necessary access to prior criminal information.

Under SB 11, a person may apply for a partial expungement in situations where two (or more) charges arise from the same incident, transaction, or set of facts if one of the charges is eligible for expungement but the other is not. If it is impracticable for a partial expungement due to the narrative of the charges, the bill requires the court to remove the official record of the charges from its public website and from within records maintained by the Central Repository. It also allows the state or local governments to maintain the written record without change and to limit inspection of the written record to criminal justice units for criminal justice purposes. Under current law, if one of two (or more charges) arising from the same incident, transaction, or set of facts is ineligible for expungement, none of the other charges may be expunged.

The bill is problematic as it tends to erode judicial transparency in cases where the narrative of expungable and inexpungeable charges are heavily intertwined. “The public’s right of access to judicial proceedings is fundamental.” *Le v. Exeter Fin. Corp.*, 990 F.3d 410, 418 (5th Cir. 2021). Marylanders have traditionally enjoyed the right to access court records. “An important common law principle provides that court proceedings and records are presumptively open to the public.” *Admin. Office of the Courts v. Abell Found.*, 480 Md. 63, 95 (2022). “All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.” Md. Code Ann., Gen. Prov. §4-103. Removing records of criminal

prosecutions is inconsistent with the need for openness. As the Fifth Circuit recently observed in the context of sealing orders:

The Judicial Branch belongs to the American people. And our processes should facilitate public scrutiny rather than frustrate it. Excessive secrecy...undercuts the public's right of access and thus undermines the public's faith in our justice system. *Le*, 990 F.3d at 421.

Each year, several pieces of legislation are introduced that seek to adjust the considerations and time frames under which expungement, pardons, or shielding can be sought. MCPA and MSA believe such changes require participation and input from the judiciary, prosecutors, and law enforcement and, rather than being dealt with in a piecemeal manner, should be addressed comprehensively in a process that involves all stakeholders and in a setting that is conducive to reasonable solutions while, at the same time, not affecting public safety.

For these reasons, MCPA and MSA **OPPOSE SB 11** and urge an **UNFAVORABLE** Committee report.

SB 11_DPSCS_LOI.pdf

Uploaded by: Catherine Kahl

Position: INFO



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

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RENARD BROOKS
ASSISTANT SECRETARY
PROGRAMS, TREATMENT AND
REENTRY SERVICES

JANELLE B. MUMMEY
DIRECTOR

BILL: SENATE BILL 11

POSITION: LETTER OF INFORMATION

EXPLANATION: The bill (1) repeals the prohibition on expungement of a charge within a “unit” of charges unless all of the charges in the unit are eligible for expungement and authorizes a person to file a petition for partial expungement of eligible charges when two or more charges arise from the same incident, transaction, or set of facts, and one or more of the charges are not eligible for expungement and (2) requires the court to order that a police or court record regarding the charges eligible for partial expungement be removed from the public website maintained by the Maryland Judiciary and within records submitted to the Central Repository.

COMMENTS:

- The Department of Public Safety and Correctional Services (DPSCS) houses the Criminal Justice Information System (CJIS) which is the repository for law enforcement to access criminal history record information, fingerprints, etc., and provides background checks to statutorily authorized entities.
- According to the bill, if charges are not eligible for expungement, the court may order the information to remain as it is in the system and limit its inspection to criminal justice agencies. To accomplish such a task, the Department’s Information, Technology and Communications (ITCD) Unit would have to reprogram its systems in order to filter out which records are limited and which records can be fully shared. In order to implement this bill, substantial program changes to the CJIS system would be necessary, and a manual unit would need to be created and staff hired to process requests and ensure required records are being limited to criminal justice agencies and not otherwise shared.
- Currently, CJIS does not have the capability to perform a partial expungement in unit cases. Attempts to expunge a charge from the unit will cause a deletion of the entire record and all attached charges.

- The Computerized Criminal History (CCH) system, which is the interface for CJIS, must be modernized before partial expungement can be implemented. Once the modernization has occurred, ITCD can begin to develop and deploy the technological solutions necessary for the CJIS system to accommodate a partial expungement.
- The CCH modernization project is currently in the procurement phase. Once awarded, the project is estimated to take at least 18 months. In addition, ITCD estimates it will take over 3 years to complete the technological upgrades to the CCH to allow CJIS the ability to implement partial expungement functionality. The additional technology and staffing required by ITCD to complete the CCH modifications is estimated at over \$400,000.
- **CONCLUSION:** For these reasons, the Department of Public Safety and Correctional Services respectfully asks this Committee to consider this information as it deliberates on Senate Bill 11.