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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.

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