

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 602
Criminal Procedure – Automated Expungement, Waiting Periods,
and Adverse Actions (Clean Slate Act of 2024)
DATE: January 31, 2024
(2/21)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 602. This legislation amends provisions in Title 10, Subtitle 1 of Criminal Procedure Article by establishing procedures for and requirements relating to the “automated expungement” of certain “clean slate eligible charges”; requiring the Department of Public Safety and Correctional Services (the “Department”) to conduct certain publicity campaigns, disseminate certain information, and provide a certain digital service; and generally relating to expungement.

While the legislation does not raise specific technology concerns for the judiciary, it is expected that this bill will trigger an extraordinary increase in the number of cases or charges potentially eligible for expungement. This will in turn result in an unreasonable burden on judicial resources. There is an added concern that the charges identified by the Department as Clean Slate Eligible will not match the records maintained by the Judiciary. The records maintained by the Department are person-centric records, whereas the records maintained by the Judiciary are case-centric. This will frequently result in the Department either over-capturing or under-capturing Clean Slate Eligible charges. As an example, many individuals are charged by citation, and those individuals’ charges are not entered in the Department’s database.

In addition, the bill would remove the requirement of “satisfactory” completion of sentence/probation. This removes from the court’s consideration critical factors relating to the appropriate decision whether to expunge. With regard to the automatic expungement provisions, there is a serious public safety risk. The requirement of domestic violence cases to have been marked domestically related is unworkable as the Judiciary is unable to identify all cases as domestically related.

Further, the bill permits a prosecuting agency to object to the expungement of a charge upon a “reasonable belief” that the individual who is the subject of the charge is

continuing to engage in criminal activity, “whether charged or not charged, within or outside the State.” This language is unclear.

The bill allows the State’s Attorney to file an objection with the court to cases on the Department’s list but does not provide for any judicial review. After a timely objection by the State’s attorney, the bill appears to require the Department to remove the case from the list. The bill is also unclear how the Department would be able to properly authenticate a defendant and permit that defendant to review a database to see if the case has already been expunged.

Finally, the bill requires the Department to notify the Administrative Office of the Courts instead of the jurisdiction of the criminal charge and requires the Chief Justice of the Supreme Court of Maryland to transmit a signed expungement order to all criminal justice units that have relevant criminal history records. Not only is it inappropriate for the Chief Justice of the Supreme Court to transmit expungement orders, the bill places responsibility on the Judiciary to issue an expungement order without a review by the court when no objection is filed.

cc. Hon. Mike McKay
Judicial Council
Legislative Committee
Kelley O’Connor