



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 1<sup>st</sup> 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**