

## TESTIMONY IN SUPPORT OF SENATE BILL 11/ HOUSE BILL 550

### **Criminal Procedure - Partial Expungement**

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

FROM: Glenn Rosenberg]

**[Glenn Rosenberg Cares Act ]**

**[I Glenn Rosenberg]** support(s) Senate Bill 11/ House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

First of all, let me correctly explain the definition of the Unit Rule. It says; charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges but what it leaves out is what makes it a Unit and this is what most people missed. It still means a case with the same of fact but they all had to happen on the same day to be the same set of fact. If the State decides to Cram 20 counts/charges into one Indictment which happened on different days, each day is a different Unit. So if the State lists a different day each charge was on in the indictment, they are separate Units. So if you have 20 counts and each count was on a different day and they offer you a deal to plea to one count and Nolle the rest, once you accept the plea, you can have the other Units expunged.

Kevin Tremaine STODDARD v. STATE (2006) Partial Expungement

The only reason I heard that they did not want to repeal the Unit Rule was because it would be to time consuming and expensive to separate/ blacken out all the information that needs to be expunged. The simple way to do this is to seal the case. It is not expunging the other counts but removing it from public view. The State still has access to it like they want. This was the States fault for cramming them all together to either force someone into a plea like they do all the time even if it only is one Unit. It is a common practice even though it is not fair to defendants. They get a conviction which is all they wanted in most cases.

What I feel to be misconduct is when they give immunity to someone to testify against a codefendant or someone else involved. What I learned is as long as they get the person they want and this other person will testify against them because of having immunity, they do not care even if that person who is working for them is lying or not. Unfortunately that is very true.

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](#), See **STODDARD (2006) COA Case above: to understand what a Unit is**: 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.

I would like to add that a subsequent conviction should not bar an expungement. Just another road block to help people live a normal life and feel good about themselves again!