



**MARYLAND
LEGAL AID**

Advancing
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House Bill 269
Criminal Procedure – Disclosure of Expunged Records – Alterations
In the Judiciary Committee
Hearing on March 5, 2024
Position: FAVORABLE

Maryland Legal Aid (MLA) submits its written and oral testimony on HB 269 in response to a request from Delegate Karen Simpson.

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 in each of Maryland’s 24 jurisdictions. 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—and combat the harms of mass incarceration, systemic racism, and the failed War on Drugs.

House Bill 269 prohibits state agencies, educational institutions, and other government entities from denying licenses, permits, and access to education based on an applicant’s expunged record. Over the past several years, the General Assembly has increased expungement opportunities for Marylanders. Just last year, the REDEEM Act of 2023 expanded the universe of case types eligible for expungements and shortened the waiting periods for expungement of convictions. Expungement expansion must be coupled with laws and regulations that prevent discrimination based on expunged records. Expungement exists to give people second chances. But if expunged records can still have civil implications, the expungement statute has no practical effect.

Under current law, an employer, educational institution, or employee reviewing an application for their respective services, is prohibited from requiring an applicant to disclose information regarding an expunged record. Further, individuals who have obtained an expungement are not required to disclose related information, regardless of the reviewer’s request. Current law, therefore, *should* prevent a decision maker from discriminating against an applicant solely based on a record that has been expunged.

Unfortunately, in practice, an expungement does not always create a clean slate. The emergence of private background check services, the extensive and intricate process of destroying records, and the internet all contribute to the rising prospect that an employer, government agency, or educational institution may find information regarding an individual’s expunged record. Often, applicants do not disclose information regarding an expunged record, as is their right under current law, only for the reviewer to obtain information by other means and then use that information to decide on the application. MLA frequently supports clients who have been denied housing, employment, and educational opportunities solely due to the discovery of the applicant’s expunged record.



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House Bill 269 bridges the gap that the current law leaves open. It adds specific language prohibiting a unit, official, or employee of the State, a political subdivision of the state, or an educational institution, from using an applicant's expunged record as the sole factor in making their determination for admission, expulsion, acceptance, or denial of services, licenses, and permits. This bill allows people who have obtained an expungement to gain access to licenses and permits to start a business or participate in a professional practice. It would afford access to education, employment and government services that are vital to maintaining independence and creating a safe and stable environment for themselves and their families. The enforcement of this bill rests at the hands of prosecutors throughout the state. It creates an avenue for which the state can actively and intentionally enforce practices that are free from discrimination. This bill ultimately creates a mechanism to hold those who continue to perpetuate harm accountable.

It is vital for individuals who have obtained an expungement be allowed to move on from their past. House Bill 269 codifies a clean slate and protects individuals from a future that is tainted by their past.

Maryland Legal Aid urges passage of House Bill 269. If you would like additional information on this bill or the underlying issues it addresses, please contact Jenna Taylor, Staff Attorney, at jtaylor@mdlab.org or 410-951-7650, or Meaghan McDermott, Chief Attorney, at mmcdermott@mdlab.org or 410-951-7635.