

HON. STACY A. MAYER  
CIRCUIT COURT  
JUDGE  
BALTIMORE COUNTY  
CHAIR

HON. RICHARD SANDY  
CIRCUIT COURT  
JUDGE  
FREDERICK COUNTY  
VICE-CHAIR



KELLEY O'CONNOR  
ASSISTANT STATE COURT  
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## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

### MEMORANDUM

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 867  
Criminal Procedure – Expungement and Shielding – Probation  
Before Judgment for Driving While Impaired or Under the  
Influence  
**DATE:** February 2, 2024  
(3/5)

### COMMENT PAPER

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The Judiciary respects the separation of powers doctrine and recognizes that setting the scope of expungable offenses is a legislative prerogative. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such policy matters.

We write to make note of certain aspects of this legislation that may not be readily apparent to ensure awareness of its full impact. Expungement impacts the court's ability to fashion appropriate sentences in that it deprives judges of relevant information should there be a subsequent offense. It will be more difficult to make informed decisions, including as to the need for substance abuse treatment, without access to a defendant's history of all prior offenses. This would deprive the court of relevant information and public safety may be put at an increased risk as a result. Moreover, impaired driving offenses are statutorily subject to enhanced penalties for repeat offenders. It is hard to apply those provisions without access to information about prior offenses. Further, it is

unclear what “discharged from probation” means on page four and whether that discharge must be successful.

Finally, this bill will require additional resources for the Judiciary. The Judiciary anticipates a high demand related to petitions for expungement and petitions to shield. The data provided in this note only represents two fiscal years. However, if this legislation were to pass there would be an increased number of charges that would qualify for expungement and shielding. To account for that, the Judiciary anticipates a minimum of 16 new positions would be needed in the District Court, another 3 new positions would be needed in the circuit courts to handle the increased workload. The total of 19 new positions will result in approximately \$ 1,264,737.00 in additional personnel costs and other operational expenses in the first full fiscal year.

cc. Hon. Tiffany Alston  
Judicial Council  
Legislative Committee  
Kelley O’Connor