

April 1, 2024

The Honorable Luke Clippinger
Chair, House Judiciary Committee
101 House Office Building
Annapolis MD 21401

Re: Letter of Information – Senate Bill 118 – Expungement and Shielding - Probation Before Judgment for Driving While Impaired or Under the Influence

Dear Chair Clippinger and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following information on Senate Bill 118 for the Committee’s consideration.

Senate Bill 118 as amended makes certain alterations to an individual’s ability to pursue expungement of certain misdemeanor and felony court and police records. Among those offenses in the proposed legislation is a violation of § 21–902 of the Transportation Article, which covers driving under the influence of alcohol. It further serves to strengthen and increase participation in the Ignition Interlock Program (IIP) by requiring that an individual found to be driving while under the influence or impaired and is either convicted, suspended, or revoked on points, or is granted probation before judgement, must enter the Ignition Interlock Program (IIP).

Over the five year period, 2017-2021 (most recent data available), in Maryland, over 850 people have been killed in crashes involving an impaired driver. Deaths resulting from impaired driving crashes account for one-third of all roadway fatalities. Maryland strives to reduce that number by setting the goal of reaching zero fatalities on our roadways by 2030. The MDOT Motor Vehicle Administration (MVA) supports the use of the IIP as an effective tool to reduce drunk driving crashes. Research continues to show that drivers who have interlocks installed are significantly less likely to have a repeat drunk driving offense than those who do not. Since 2006, ignition interlocks prevented 26 million attempts to drink and drive (MADD Ignition Interlock Report, January 2022). Here in Maryland just in Fiscal Year (FY) 2023, IIP prevented nearly 3,000 attempts to start or operate a vehicle where the driver’s blood alcohol concentration (BAC) was greater than 0.08 grams of alcohol per deciliter of blood (g/dL) grams of alcohol per 210 liters of breath – the legal limit in Maryland. These statistic demonstrate the effectiveness at keeping impaired drivers off the roadways, and that comprehensive ignition interlock laws help states reduce impaired driving fatalities.

In 2016, the landmark passage of Maryland’s Noah’s Law strengthened administrative sanctions for impaired driving and significantly expanded the IIP. Participation in the IIP has increased as a result, and these changes are helping to keep Maryland’s roadway users safe. Ignition interlocks allow drivers to continue driving sober.

Strengthening Maryland's IIP program by requiring participation for impaired drivers receiving a probation before judgement disposition is an important next step in strengthening Maryland's network of impaired driving prevention programs and preventing repeat offenses. Although Maryland has implemented many measures to help end impaired driving, the national advocacy group Mothers Against Drunk Driving (MADD) released their 2021 scorecard in which Maryland received a C+. In that report, MADD noted that Maryland's all-offender law contains a "loophole," which they describe as the biggest in the country. Specifically, first-time convicted drunk drivers can avoid a mandatory ignition interlock referral when that verdict is set aside, and the drunk driver is granted a probation before judgement disposition.

Further, the National Highway Traffic Safety Administration (NHTSA) conducted an Impaired-Driving Program Assessment in Maryland in the fall of 2023. These assessments developed by the NHTSA are conducted by a panel of national subject matter experts who review a state's efforts to control impaired driving and provide recommendations to improve or enhance them. In the completed Maryland Impaired Driving Assessment Final Report issued by the panel of experts, four recommendations were singled out by the report. One of those four recommendations specifically emphasized that Maryland needs to "mandate participation in the Ignition Interlock Program for drivers who receive probation before judgement" as a key component for addressing the dangers of impaired driving on Maryland's roadways. Senate Bill 118 as amended addresses this gap by requiring all those receiving a probation before judgement for violating Transportation Article § 21-902 (a) or (b) offenses must enroll in the IIP.

Additionally, the MVA maintains driving records that can include notations of convictions for certain offenses. The maintenance and expungement of these driving records are controlled by the Transportation Articles, specifically § 12-111 through 12-113, 16-117, 16-117.1, and 16-819 (for commercial drivers), and by the Public Information Act. Accordingly, given the scope of the amendments and the specific expungement provisions in the Transportation Articles applicable to Administration records, the MVA does not view the provisions of Senate Bill 118 as applying to records maintained by the Administration. Thus, the MVA holds that its records would be unaffected by the passage of Senate Bill 118.

The Maryland Department of Transportation respectfully requests the Committee consider this information during its deliberations of Senate Bill 118.

Respectfully submitted,

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