



MARYLAND STATE'S ATTORNEYS' ASSOCIATION

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Bill Number: HB 867
Maryland State's Attorneys' Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATE'S ATTORNEYS'
ASSOCIATION IN OPPOSITION TO HOUSE BILL 867-
CRIMINAL PROCEDURE-EXPUNGEMENT AND SHIELDING- PROBATION
BEFORE JUDGMENT FOR DRIVING WHILE IMPAIRED OR UNDER THE
INFLUENCE

The Maryland States Attorneys Association is opposed to House Bill 867- Criminal Procedure- Expungement and Shielding- Probation Before Judgment for Driving While Impaired or Under the Influence. This legislation would on many occasions remove the State's ability to seek the proper justice against repeat drunk drivers.

Criminal Procedure §10-105 regarding expungement of Probation Before Judgment and other non-convictions has existed for a very long period of time. It has always carved out the exception to prohibit the expungement of a probation before judgment for a DUI or DWI. There is a very logical and compelling reason for that. DUI is a relatively unique crime from many others in that a person who is caught drinking and driving is often not caught and can easily commit repeat offenses over lengthy periods of time. It is not uncommon at all to have a person with a DUI once every 10 or 12 years. This legislation would remove from the judicial system the ability to know of a prior DUI when a person comes back 10 years later and is doing it again. It is difficult to imagine what would be more important to a Judge in a DUI case than knowing that the person has done it before. The public deserves to be aware of and protected from those who choose to endanger their lives on the roadways by being in control (or lack of control) of a motor vehicle.

On February 24, 2023, a Baltimore County elementary school teacher was killed by a drunk driver as he and his wife were driving home from a date celebrating their anniversary. The person who ran a red light traveling 106 miles an hour killing the teacher was drunk and had his 11 year old child in his car. The teacher's wife was seriously injured and is still recovering from her injuries. The person who committed this offense had a probation before judgment for a DUI from May of 2012. If this legislation was in place, he could have expunged that probation before judgment and the Judge who sentences the offender would think this was his first instance of drinking and driving. This fact scenario is not an anomaly. It is common.

In addition, as drafted, this bill will allow that offender who killed the elementary school teacher to still expunge the prior probation before judgment. CP §10-105 mandates

expungement if the person is eligible. Subsection (e)(4) delineates when a person is not eligible. A person cannot get an expungement of a probation before judgment if they are convicted of a crime within three years of the entry of the probation before judgment which the person seeks to expunge. With this legislation, therefore, a person could expunge a probation before judgment for a DUI (after the ten years) even if they commit another DUI three years and a day after the PBJ and could still expunge the PBJ if they commit a vehicular manslaughter more than three years after.

If this legislation were to pass it would have to be with an amendment to subsection (e)(4). The section could be amended to make a person not entitled to expungement if they have been convicted of an offense since the probation before judgement and prior to the application for expungement.

The Maryland State's Attorneys' Association asks you to continue the endeavor to protect the citizens of this State on our roadways by giving an unfavorable report to House Bill 867.