



**TESTIMONY IN SUPPORT OF HOUSE BILL 499**

**Criminal Records – Expungement and Maryland Judiciary Case Search  
Expungement Reform Act of 2025**

**TO:** Members of House Judiciary Committee

**FROM:** Center for Criminal Justice Reform, University of Baltimore School of Law

**DATE:** February 28, 2025

The University of Baltimore School of Law’s Center for Criminal Justice Reform (“the Center”) is dedicated to supporting community-driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system.

House Bill 499, the Expungement Reform Act of 2025, opens the door to economic opportunity and otherwise moves Maryland forward in multiple critical ways. Firstly, it clarifies confusing language in Md. Code Ann., Crim. Proc. § 10-101 & § 10-110, which has been interpreted to permanently bar Marylanders from expunging their convictions if they had any probation violation, no matter how old, and regardless of its nature or reason (including decades old violations for possession of small amounts of now-legal cannabis). House Bill 499 also adds to the list of expungable offenses, making convictions for certain misdemeanors eligible, and prohibits the Maryland Judiciary Case Search from referring to any cannabis charges that have been pardoned by the Governor. The Center applauds Governor Wes Moore and the many diverse partners throughout the state who championed this important legislation and urges a favorable report on House Bill 499.

- I. Through House Bill 499, the General Assembly can correct confusing statutory language that has been interpreted to permanently bar Marylanders from expunging otherwise eligible offenses if the individual seeking expungement violated probation, an interpretation that has erected needless barriers for thousands.**

In 2022, the Court of Special Appeals ruled in *In re Expungement Petition of Abhishek I* that any probation violation<sup>1</sup> makes a conviction *indefinitely* ineligible for expungement. The court found that a violation, regardless of its nature, meant that the individual has not satisfactorily completed his sentence. Due to this ruling, Marylanders with decades-old misdemeanors have no access to expungements, impacting their ability to secure employment, housing, education, occupational licensing, financing and more. Since this ruling, the Maryland General Assembly

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<sup>1</sup> The individual seeking expungement in this case had previously violated his probation terms by possessing cannabis, a substance that, since legalization, brought \$700 million to the state in just one year.

passed the REDEEM Act, which cuts the criminal record expungement waiting time in half for many offenses, allowing millions of Marylanders to seek relief sooner. This positive and hopeful step forward was dramatically undercut by the decision in *Abhishek*, as thousands of Marylanders discovered that they are still permanently and categorically barred from having their records cleared due to the ruling.

House Bill 499 seeks to resolve this challenge by altering the expungement criteria to be accessible a certain number of years since “**the completion of the sentence,**” removing the term “satisfies” and “satisfactorily” from the expungement statutes. This means that once a person has served the entire sentence *and* finished the additional 3-10-year waiting period, they will be eligible for expungement *if* the charge is eligible. The State’s Attorney’s Office and the victim still retain the right to object to the expungement in accordance with Criminal Procedure §10–110 f(1). It is then left to the courts, after considering a number of factors, to determine whether or not expungement is in the interest of justice. This approach is vastly superior to a blanket ban that prohibits expungement regardless of the specific circumstances of the person and their probation violation.

House Bill 499 keeps the factors the court may consider in place, including the nature of the crime, the history and character of the person, the person’s success at rehabilitation, whether the person is a risk to public safety, and whether the expungement would be in the interest of justice. This is a rational and balanced approach to ensuring that the estimated 25% of working-age Marylanders with a record<sup>2</sup> can receive the relief necessary to open hard earned doors to opportunity and allow them to fully reacclimate into society.

## **II. Expanding expungement through House Bill 499 will reduce collateral consequences associated with having a criminal record.**

The impact of an arrest or conviction record on individuals, families and communities is staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes. These impacts span numerous areas central to a person’s ability to survive and thrive, impeding access to stable housing, education, healthcare, voting, occupational licensing, rights related to the parent-child relationship and more. House Bill 499 adds seven common misdemeanors to the expungement eligibility list and removes all pardoned cannabis charges and 3-year stets from Case Search, which will have a profound positive impact on the lives of countless Marylanders, as well as the state’s economic viability as a whole. Background checks are being used increasingly for non-criminal justice purposes.<sup>3</sup> More than 92% of employers perform background checks for job applicants<sup>4</sup> and deny employment to many returning citizens based on a criminal record. If a potential

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<sup>2</sup> Bureau of Justice Statistics, U.S. Department of Justice, Survey of State Criminal History Information Systems, 2012, 26 [https://drive.google.com/file/d/1hUGVpwI16Z\\_GN4KOK6gV1eNkiyYbjbJI/view](https://drive.google.com/file/d/1hUGVpwI16Z_GN4KOK6gV1eNkiyYbjbJI/view).

<sup>3</sup> Becki Goggins, *New Blog Series Takes Closer Look at Findings of SEARCH/BJIS Survey of State Criminal History Information Systems, 2016*, SEARCH (Mar. 29, 2018) (From 2006 to 2016, “the number of fingerprints processed for noncriminal justice purposes increased by 89.6% . . . while the number processed for criminal justice purposes actually decreased by 6.6%.”)

<sup>4</sup> Society for Human Resource Management, Conducting Background Investigations and Reference Checks, [https://www.shrm.org/topics-tools/tools/toolkits/conducting-background-investigations-reference-checks#:~:text=A%20survey%20by%20SHRM%20found,cycle%20\(see%20chart%20below\).](https://www.shrm.org/topics-tools/tools/toolkits/conducting-background-investigations-reference-checks#:~:text=A%20survey%20by%20SHRM%20found,cycle%20(see%20chart%20below).)

employer, institution of higher education, department of licensure, or housing provider obtains a fingerprint background check, a person's full record (including non-convictions) within a unit<sup>5</sup> would become available to them. Most individuals seeking background checks cannot accurately distinguish between a conviction and a non-conviction—let alone understand the circumstances that led to a “guilty” verdict in the first place. Unsurprisingly, expungement recipients exhibit much better employment outcomes.<sup>6</sup> Thus, expanding expungement opportunities is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

### **III. The mitigation of collateral consequences does not pose a public safety risk and instead will likely result in public health and safety benefits.**

Expanding actual relief for individuals who are already eligible for expungement does not pose a public safety risk. An empirical analysis of Michigan's expungement practices found that recipients of expungement posed a lower crime risk than the general population of Michigan as a whole, suggesting there is at least a strong correlation between expungement and lower recidivism.<sup>7</sup> There is no empirical evidence that expungement undermines public safety.<sup>8</sup> Therefore, any purported safety risks from House Bill 499's opponents are misplaced.

Beyond the absence of a public safety risk, House Bill 499 is likely to affirmatively promote public safety. There is ample research that demonstrates the criminogenic effects associated with the collateral consequences of having a criminal record.<sup>9</sup> It follows that alleviating the burden of these collateral consequences would reduce illegal behavior among expungement recipients.

The Center fully supports this important bill as part of a broader set of efforts to remove barriers to employment, education, housing, and more for Marylanders with criminal records who have paid their debt to society. For these reasons, we respectfully urge a favorable report on House Bill 499.

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<sup>5</sup> Under current Maryland law [Criminal Procedure §10–107](#), 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.

<sup>6</sup> J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 HARV. L. REV. 2460, 2528 (2020).

<sup>7</sup> *Id.* at 2512–14.

<sup>8</sup> Sonja B. Starr, "Expungement Reform in Arizona: The Empirical Case for a Clean Slate," 52 Arizona State Law Journal 1059, 1076 (2020).

<sup>9</sup> J.J. Prescott & Sonja B. Starr, The Power of a Clean Slate, <https://www.cato.org/regulation/summer-2020/power-clean-slate>.