

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 589: **Criminal Procedure – Partial Expungement**

TO: Hon. William Smith, Chair, and Members of the Senate Judicial Proceedings Committee
FROM: Christopher Dews, Policy Advocate
DATE: February 19, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that advocates for better jobs, skills training, and wages for low-income workers and job seekers in Maryland. We strongly support Senate Bill 589 as a means of increasing the employability of job seekers with criminal records that do not result in a guilty conviction.

Many employers often refuse to hire applicants with criminal records, even if they have never been convicted of a crime. With some state court systems – including Maryland – allowing criminal record information to be posted online, an individual’s criminal history is no longer strictly used for law enforcement purposes or sentencing, but hiring decisions. As advances in technology have made criminal background checks easier than ever to perform, more Marylanders are finding themselves shut out of the job market. Many people with a criminal background apply for jobs for which they are well-qualified but do not have their applications even considered because of a non-conviction record.

During the 2015 legislative session, the Maryland legislature adopted a number of laws that would restrict public access to certain criminal records. More specifically, the legislature repealed the ‘subsequent conviction rule’, allowing for the expungement of non-conviction records regardless of a subsequent, unrelated conviction. Adopting this law was a huge step in eliminating the negative impacts that a non-conviction record can have on a worker’s ability to secure employment.

Unfortunately, current law also prohibits the expungement of eligible charges within a unit if there is an ineligible charge – a conviction - that also falls within the unit. This so-called ‘unit rule’ significantly limits expungement for those individuals seeking to restrict public access to those charges that did not result in a conviction.

Fortunately, on occasion, the Maryland Judiciary may order a “partial expungement” for a case to remove specific charges from a unit; instead of the removal of the complete unit of charges. According to the Department of Public Safety and Correctional Services, requests for partial case expungements require the Expungement Unit within the Criminal Justice Information Repository System (CJIS) to send correspondence back to the Maryland Judiciary indicating that the specific charge being requested cannot be removed due to the ‘unit rule’. Once the Maryland Judiciary receives the correspondence from

the Expungement Unit, they in turn “amend” their court records, essentially removing the specific requested charge and then resending the information back to the Criminal Justice Information System-Central Repository. This process results in the information not being available for public inspection via ‘partial expungement’.

Senate Bill 589 seeks to address the challenges associated with the ‘unit rule’ by providing for the ‘partial expungement’ of eligible non-convictions within a unit of charges. In order to ensure effective implementation in a timely manner, Senate Bill 589 would delay the bill’s effective date and provides for annual reports detailing the estimated costs and plans for implementation by 2021.

JOTF fully supports efforts to remove barriers to employment for Marylanders saddled with arrests and charges that did not result in a guilty conviction. As employment barriers increase for people with criminal records, so too does their likelihood of recidivism. Senate Bill 589 seeks to eliminate procedural obstacles that make it difficult for workers to seek expungement of eligible charges within a unit of charges. For these reasons, we respectfully urge a favorable report.