



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB0589 - Criminal Procedure - Partial Expungement
Before the Judicial Proceedings Committee
on February 19, 2020**

Mr. Chairman, Mr. Vice Chairman and Members of the Committee:

Senate Bill 589 allows defendants to file for expungement for charges that did not result in a guilty finding, whether at trial or by way of a plea negotiation.

Plea negotiations make the criminal justice system work. Multiple count charging documents are commonplace. A first degree burglary case, for instance, can include several different crimes such as trespassing, destruction of property, and theft. It is routine to charge all of these crimes instead of only the broader, first degree burglary, by itself. Charging these other crimes, referred to as lesser-included offenses, is like prosecutorial insurance. These counts have fewer elements and are much easier to prove than the flagship count - the burglary. This practice also allows for greater flexibility in the sausage-making that is plea negotiation. By working a plea to a lesser-included offense, the attorneys can limit the exposure of the defendant, reduce the cost and risk for the prosecution at trial, and more carefully tailor an acceptable sentence. The problem is what's left on the criminal record in the wake of the plea. The flotsam of the

dropped, or nolle prossed, counts remains. Let us call them the zombie counts.

The way the law stands now, if someone charged with first degree burglary, trespass, theft, and destruction of property, takes a plea to theft only, all of the charges, including the first degree burglary, will remain on the record for public view. The theft may be expungeable at some time in the future, but until that happens, the burglary charge will be the first thing an employer sees on a background check. The stigma of the allegation itself remains. Zombie-like. It's dead, but it still looms large.

Under this bill, however, the defendant is able file for expungement of all the counts that were dropped. The destruction of property can be removed. The trespass can be stricken. The first degree burglary can be erased. This makes the criminal record simply more accurate.

For these reasons, I urge a favorable report on Senate Bill 589 from this committee.

Very Truly Yours,

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

Jill P. Carter