

AttorneyGeneral_FAV_SB900

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FACSIMILE NO.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

WRITER'S DIRECT DIAL NO.

March 5, 2020

To: The Honorable Williams C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: The Office of the Attorney General

Re: SB 900 – Criminal Records – Disclosure of Information – Prohibited Acts (SUPPORT)

The Office of the Attorney General supports Senate Bill 900 and urges a favorable report. This bill prohibits an employer from requiring an applicant to provide information regarding a conviction that the Governor pardoned. It precludes an educational institution from refusing to admit a person with a conviction that the Governor pardoned. Finally, it prevents private entities from disclosing information relating to a pardoned or expunged conviction. This latter category of prohibition is especially salutary because online data aggregators operating in the shadows frequently lack the necessary internal controls or quality assurances to ensure information they sell is accurate.¹

Past crimes that are ultimately pardoned bear no relevance to an applicant's employability or capacity to be educated. Therefore, SB 900's prohibitions logically prevent employers from requiring their disclosure and educational institutions from refusing admission to anyone for whom the Governor has pardoned a crime.

For all of the foregoing reasons, the Office of Attorney General urges a favorable report on SB 900.

cc: Members of the Judicial Proceedings Committee

¹ See Steven Melendez and Alex Pasternack, *Here are the data brokers quietly buying and selling your personal information*, FastCompany (Mar. 2, 2019), available online at: <https://www.fastcompany.com/90310803/here-are-the-data-brokers-quietly-buying-and-selling-your-personal-information> ("Apart from the dangers of merely collecting and storing all that data, detailed (and often erroneous) consumer profiles can lead to race or income-based discrimination, in a high-tech version of redlining.").



caryn_fav_sb900

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Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 900 :

Disclosure of Information - Prohibited Acts

TO: Chairman. William C. Smith, and Members of the Senate Judicial Proceedings Committee

FROM: Caryn York, Policy Advocate

DATE: March 5, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates for policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. JOTF supports Senate Bill 900 as a means to ensure that a criminal record doesn't limit employment or educational opportunities.

According to the National Employment Law Project (NELP), one in three US adults have a criminal record that will surface in a routine background check. In Maryland, it is estimated that 1.5 million residents, nearly 25% of the state's population, have a criminal record. The ability to secure stable employment and education is crucial to the successful reentry of those individuals who have experienced incarceration. Unfortunately, a criminal record can serve as an insurmountable barrier to securing gainful employment and other critical resources, even if the record did not result in a conviction, was expunged or pardoned.

A 2009 study, funded by the National Institute of Justice examined more than 80,000 criminal records and found that there is a point in time when an individual with a criminal record is at no greater risk of committing another crime than other individuals of the same age. Criminal records can serve as both the cause and consequence of poverty. Workers and job seekers that have a criminal background apply for jobs for which they are well qualified, but are not considered because of a non-conviction record or for dated, and often times minor, convictions that occurred decades ago.

Senate Bill 900 seeks to address this issue by prohibiting certain entities from requiring the disclosure of a conviction that the Governor pardoned in an application. This law prohibits an educational institution from refusing a person's admission solely because the person refused to disclose information about a conviction that the governor pardoned or charges which were expunged. Also, this law prohibits a private entity from disclosing information relating to a certain conviction or certain records. If enacted, this bill would simply prohibit employers and educational institutions from requiring a person to disclose expunged information about criminal charges in an application, interview, or other means.

Ensuring that the state support efforts to remove barriers to education and employment for workers with a criminal record enables qualified Marylanders to successfully re-enter the workforce. To ensure that individuals with a criminal record are able to obtain employment and financial security, we respectfully urge a **FAVORABLE** report of Senate Bill 900.

MDDC_UNF_SB 900

Uploaded by: snyder, rebecca

Position: UNF



Maryland | Delaware | DC Press Association

P.O. Box 26214 | Baltimore, MD 21210

443-768-3281 | rsnyder@mddcpress.com

www.mddcpress.com

To: Judicial Proceedings Committee

From: Rebecca Snyder, Executive Director, MDDC Press Association

Date: March 5, 2020

Re: **SB 900 – OPPOSE**

The Maryland-Delaware-District of Columbia Press Association represents a diverse membership of news media organizations, from large metro dailies like the Washington Post and the Baltimore Sun, to hometown newspapers such as The Frederick News Post and the Hagerstown Herald Mail to publications such as The Daily Record, the Oakland Republican, and online-only publications such as Maryland Matters and Bethesda Beat.

The Press Association is concerned about the overly broad language in SB 900, which would constitute prior restraint* on news media outlets who wish to report on gubernatorial pardons or expunged records covered in the subtitle. On page 2, lines 18-20, the bill reads **“A PRIVATE ENTITY MAY NOT DISCLOSE INFORMATION RELATING TO A CONVICTION THAT THE GOVERNOR PARDONED OR RECORDS THAT HAVE BEEN EXPUNGED UNDER THIS SUBTITLE.”** We believe this would restrict the ability of news media to report on a wide range of newsworthy items. We would prefer that those lines be struck from the bill, or that the news media be carved out, with the following language inserted into line 18 so that the line reads **“A PRIVATE ENTITY, EXCLUDING NEWS MEDIA, MAY NOT DISCLOSE INFORMATION RELATING TO A...”**

The Press Association urges the committee to issue an unfavorable report unless the scope of page 2, lines 18 – 20 are struck or narrowed to avoid prior restraint.

* “In First Amendment law, prior restraint refers to speech or other action prohibited by a government entity before the speech happens” and is typically held in disfavor by courts unless there is an overwhelming national security risk. (https://www.law.cornell.edu/wex/prior_restraint).

FACTS

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central to a strong and open society.**

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