



**Testimony for the House Judiciary Committee
January 28, 2020**

**HB 83 Criminal Procedure - Automatic Expungement - Possession of
Marijuana**

FAVORABLE WITH AMENDMENT

TONI HOLNESS
PUBLIC POLICY DIRECTOR

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

MAIN OFFICE
& MAILING ADDRESS
3600 CLIPPER MILL ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
or 240-274-5295
F/410-366-7838

FIELD OFFICE
6930 CARROLL AVENUE
SUITE 610
TAKOMA PARK, MD 20912
T/240-274-5295

WWW.ACLU-MD.ORG

OFFICERS AND DIRECTORS
JOHN HENDERSON
PRESIDENT

The ACLU of Maryland supports HB 83, which would require the automatic expungement of records related to simple possession of marijuana. We respectfully urge the committee to consider an amendment allowing for individuals to opt out of the automatic nature of the expungement.

Studies show that employment opportunities can reduce recidivism rates.¹ Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, such as minor possession of marijuana, which this body decriminalized in 2014—can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing

A misdemeanor criminal record can and does create a barrier to employment for many Marylanders. More than 80% of U.S. employers perform criminal background checks on prospective employees.² Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a barber license,³ a cosmetology license,⁴ an electrician license,⁵ professional engineer license,⁶ a

¹ See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

² Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management*, Alexandria, Va.: Society for Human Resource Management, 2006.

³ Md. Business Occupations and Professions, Code Ann. § 4-314

⁴ Md. Business Occupations and Professions, Code Ann. § 5-314

⁵ Md. Business Occupations and Professions, Code Ann. § 6-316.

⁶ Md. Business Occupations and Professions, Code Ann. § 14-317.



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landscape architect license,⁷ an interior designer certificate,⁸ and countless others.

Misdemeanor convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.⁹

A misdemeanor conviction also hinders an individual's access to stable housing and a range of public benefits. A misdemeanor conviction record may bar individuals from residing at certain homes,¹⁰ and exclude individuals from low-income utility payment plans.¹¹

Amendment to allow Individuals to Opt Out of the Automatic Expungement

Some individuals may need to retain their criminal records, particularly non-citizens who intend to apply for naturalization and who may need to declare the result of all entanglement with the criminal legal system. To accommodate this, we support the sponsor's amendment to allow individuals to opt out of the automatic expungement and instead permit them to manually process their expungement at a later date, when they no longer need access to the record.

For the foregoing reasons, the ACLU of Maryland urges this committee to issue a favorable report on HB 83, with the aforementioned amendment.

⁷ Md. Business Occupations and Professions, Code Ann. § 9-310.

⁸ Md. Business Occupations and Professions, Code Ann. § 8-310.

⁹ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

¹⁰ See for example, COMAR 35.04.01.04.

¹¹ COMAR 20.31.01.08.