



LAST  
PRISONER  
PROJECT

Testimony of Sarah Gersten  
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before the Maryland House Committee on Judiciary  
on HB 83  
in SUPPORT  
January 28, 2020

Thank you, Mr. Chairperson and members of the Committee for providing the opportunity to submit written testimony in support of House Bill 83. I am testifying today on behalf of the organization: The Last Prisoner Project. I serve as the organization's Executive Director and General Counsel. The Last Prisoner Project (LPP) uses a multifaceted approach to addressing the disparities in sentencing for cannabis offenses and the collateral consequences of those arrests and convictions. LPP works to redress these disparities through policy work, legislative advocacy, and impactful direct service programs that work to both release nonviolent cannabis offenders from incarceration and to assist those coming out of incarceration in rebuilding their lives through reentry programs and anti-recidivism efforts. We thank the Maryland legislature for the opportunity to testify concerning the creation of automatic expungement for cannabis possession charges.

The negative effects of a criminal record on an individual's life are well documented. Even minor offenses, such as a nonviolent drug possession charge, carry lifelong consequences that can impact an individual's access to [employment](#), [housing](#), [voting](#), [financial stability](#), [social assistance programs](#), and other opportunities, despite the debt that has already been paid to society. The consequences of a criminal record also come at a great cost to our economy. The estimated cost of employment losses among people with criminal records is [as much as \\$65 billion per year](#) in terms of gross domestic product.

And one of the most common offenses exacerbating this problem, marijuana possession, has been decriminalized or legalized in a [majority of states](#), including here in Maryland. While social and political attitudes on marijuana and its legality are [changing](#), America's criminal justice system is still arresting and incarcerating individuals for marijuana offenses. While a billion dollar legal cannabis industry is emerging across the US, [every minute](#), someone is arrested for marijuana possession, and again in 2018 arrests for marijuana [increased](#).

Further, the effects of a criminal record are exacerbated for marginalized communities, which are already more susceptible to over-policing and stricter sentences. Ultimately, America's war on drugs and the overcriminalization of marijuana use specifically is an issue of race and class discrimination. [Overwhelmingly](#), people of color are much more likely to be arrested and charged with marijuana possession, although the rates of marijuana use do not substantially differ across racial and ethnic groups. Here in Maryland that fact holds true. In fact, [data shows](#) that in past years about 96% of those arrested by Baltimore police for cannabis possession were black. And despite the state's attorneys commitment not to prosecute low level marijuana offenses, these trends continue here in Maryland.

Fortunately, along with a growing trend toward legalization there is also a [growing trend](#) toward easing the process for people to seal or expunge past marijuana convictions. Unfortunately, while these laws do simplify the process, only a [fraction](#) of eligible individuals are using them. And this is not limited to marijuana offenses. Legal analysts [state](#) that many Americans do not take advantage of the increasing number of expungement and record sealing laws.

Part of this problem is lack of access to information. Many individuals may simply not realize they are eligible for expungement or sealing. The preliminary step of determining eligibility involves understanding a complicated state statute--a daunting task for those without formal legal training. Even more so, the process for applying for relief and properly submitting your request is difficult to navigate without expert assistance. Even in states like Massachusetts where the process is arguably the least complex, many eligible individuals are not sealing or expunging their marijuana convictions. This is because publicly available information about the expungement process can be difficult to decipher for those without a legal background or for whom English is a second language.

Additionally, the cost of expungement is often prohibitively high for those who most need it. Beyond high court fees, many individuals with criminal records often lack the resources to hire an attorney. This means that even a simplified petition process is often still too complex and costly to achieve the goal of greater equity for those held back by previous marijuana offenses on their records. While low-cost options for expungement such as legal aid clinics and other nonprofits are increasing available, many people are simply unaware of these affordable options. Moreover, pro bono services are often overwhelmed and lack the resources they need to fully serve their communities. Not to mention many have strict eligibility requirements, limiting the number of individuals they can serve. Low rates of record sealing are consistent with outcomes in other states with application-based sealing, and illustrates the need for an automatic process.

Our work has proven to us that there is a critical need for this type of reform. Along with the cannabis company, Harvest Health and Recreation, which has several medical marijuana facilities here in Maryland, LPP is developing vocational trainings that create pathways to employment for justice-involved individuals. However, one of the barriers to implementing these programs in

Maryland is the barriers to employment individuals with cannabis and other offenses continue to face when seeking gainful employment. Here in Maryland, like many states, there is a fundamental injustice that those with past cannabis convictions are now barred from participating in and deriving economic benefits from the legal cannabis industry.

But Maryland now has the opportunity to help right this injustice. Our work shows us that legislators are rightly concerned that individuals with past convictions for conduct that is now decriminalized should not continue to bear the stigma those convictions create. And part of that solution must be the creation of automatic expungement processes. We know that an applications-based system, which unfairly puts the burden of removing this stigma on the individual who bears it, not on government which created the stigma, will be largely ineffective and provide relief to few who need it.

By ensuring automatic expungement of past convictions for conduct that has been decriminalized, we can provide people across the state of Maryland with the opportunity to rebuild their lives, while building the state's workforce and strengthening its economy. Thank you for your consideration.