

**SenatorBailey\_FAV\_SB617.pdf**

Uploaded by: Bailey, Jack

Position: FAV

JACK BAILEY  
Legislative District 29  
Calvert and St. Mary's Counties

Judicial Proceedings Committee



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

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February 23, 2021

**Senate Bill 617 – Criminal Procedure – Expungement – Entitlement**

Dear Chairman Smith and Members of the Committee:

I am writing to introduce Senate Bill 617 – Criminal Procedure - Sexual Offenders - Lifetime Supervision. Senate Bill 617 would provide that a person is not entitled to expungement if the court ordered the person to register as a sex offender as a result of the charge on which the petition for expungement is based. This bill would also add individuals who have not satisfied an obligation to pay court costs, fines, or restitution imposed by the court in connection with the disposition of the charge on which the petition is based.

It is my belief that Senate Bill 617 will help to protect Marylanders. In particular, prohibiting registered sex offenders from having their criminal records expunged is important to ensure that these offenders, particularly those who have committed sexual offenses against our children, cannot circumvent the registry, which is intended to keep our residents safe from these offenders. This is particularly important because those who commit sexual offenses against children have a higher rate of recidivism than those who have committed other crimes. This bill would also ensure that convicted criminals pay their full debt to society before becoming eligible to have their criminal records expunged.

I respectfully request a favorable report on Senate Bill 617. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey  
District 29  
Calvert and St. Mary's Counties

**SB 617.pdf**

Uploaded by: Cox, John

Position: FAV

**Bill Number: SB 617**  
**Maryland States Attorneys Association**  
**Support**

**WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION**  
**IN SUPPORT OF SENATE BILL 617**  
**CRIMINAL PROCEDURE – EXPUNGEMENT – ENTITLEMENT**

The Maryland States Attorneys Association supports Senate Bill 617, Criminal Procedure – Expungement – Entitlement as a common sense bill to address two issues with regard to expungements in limited circumstances.

Criminal Procedure Article §10-105 addresses entitlements to expungement of many different criminal case dispositions including but not limited to the entry of a nolle prosequi, acquittal, dismissal, stet and probation before judgement. With regard to a probation before judgement, the Court “shall” grant the expungement if the defendant is entitled to the expungement. The statute then addresses when a person is not entitled to expungement. Currently, those circumstances are limited to if (1) the offense is a DUI or causing a life threatening injury by motor vehicle while under the influence of alcohol, (2) the time period has not yet expired, (3) the defendant has been convicted of a crime in the interim, or (4) the defendant is pending a criminal charge. If one of these exclusions is not present the expungement must be granted.

The mandatory nature of the statute has caused problems with regard to some unique circumstances which this Bill then addresses. First, in some circumstances an individual could have received a probation before judgement and also be on the sex offender registry for that offense. Under Title 11, Subtitle 7 of the Criminal Procedure Article if an individual receives a probation before judgement for a Fourth Degree Sexual Offense, the sentencing judge has the discretion to determine whether or not the person should be required to register as a sexual offender. If ordered to do so, the time period would be fifteen years as a Tier 1 Sexual Offender. The expungement statute, however, creates the probability that the defendant can petition for and receive an expungement within three years of the time that the Judge has ordered that the person register as a sexual offender. This would remove all evidence of the adjudication and therefore the order that the person register.

Next, the current expungement statute does not take into consideration if the defendant has satisfied his or her obligations to the Court and to the victim of their crime financially. If a Judge has granted an individual probation before judgement and ordered the defendant to pay a fine, court costs or restitution to the victim, it would make sense that if the person is financially able they should follow that direction. Under the current law, an individual could have all record of the adjudication removed after three years and make restitution collection through a judgement practically impossible from that point forward. There are often occasions, in less serious cases, that a Judge

may impose a fine and/or court costs without probation supervision. In that scenario, an individual could just ignore the payment requirement and then expunge the record of it several years later. This doesn't make sense.

Adding the restrictions on expungement to circumstances where a person is a registered sexual offender or has not met his burden to make the victim or the Court whole is important and this Bill would accomplish those goals. We ask for a Favorable report.

# **Expungement - restrictions - testimony - senate -**

Uploaded by: Jordan, Lisae C

Position: FAV



**Working to end sexual violence in Maryland**

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**Testimony Supporting House Bill 702 and 617**  
**Lisae C. Jordan, Executive Director & Counsel**  
February 23, 2021

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault, including for survivors of child sexual abuse. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence in the State of Maryland. We urge the Judicial Proceedings Committee to report favorably on House Bill 702 and 617.

**House Bill 702 and 617 – Restrictions on Expungement**

This bill would prohibit expungement in cases where either:

- 1) the convicted offender was sentenced to be on the sex offender registry, or
- 2) an order of restitution against the convicted offender has not been satisfied.

Permitting an offender to expunge a record while on the sex offender registry is illogical, providing the public with information in one venue but restricting it in another. For cases where the offender is no longer on the registry, allowing expungement would deprive courts of important information, including in family law matters. (MCASA would not oppose shielding in these cases.)

Regarding expungement of cases where there is an unsatisfied judgement of restitution, MCASA appreciates the challenges facing low income defendants who have otherwise met their obligations to society, however, restitution is important to crime victims. We respectfully suggest that any changes to restitution orders – particularly a change that effectively vacates the order – should go through the process to modify sentences and include notice to the victim.

**The Maryland Coalition Against Sexual Assault urges the  
Judicial Proceedings Committee to report favorably on  
House Bill 702 and 617**

# **MCPA-MSA\_SB 617-SB 702 \_Expungement-Entitlement-Su**

Uploaded by: Mansfield, Andrea

Position: FAV





# Maryland Chiefs of Police Association Maryland Sheriffs' Association



## MEMORANDUM

**TO:** The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings Committee

**FROM:** Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

**DATE:** February 23, 2021

**RE:** **SB 617 and SB 702 Criminal Procedure – Expungement -Entitlement**

**POSITION: SUPPORT**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) SUPPORT SB 617 and SB 702. These bills would prohibit the granting of an expungement to a convicted defendant that is placed on the sex offender registry.

The sex offender registry is, in part, designed to help protect potential future victims from convicted sexual predators by requiring the offender to register - thereby providing notice to communities. In allowing these offenders to be removed from the registry due to an expungement we are simply placing communities in harm's way and potentially creating more victims of these horrific crimes.

Prohibiting the granting of an expungement in these matters protects communities and future victims from potential harm these offenders. For these reasons MCPA and MSA SUPPORT SB 617 and 702 and urge a FAVORABLE Report.

**SB617\_UNF\_JOTF.pdf**

Uploaded by: Dews, Christopher

Position: UNF

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

## **TESTIMONY IN OPPOSITION TO SENATE BILL 617:**

### **Criminal Procedure – Expungement – Entitlement**

**TO:** Hon. William Smith, Chair, and members of the Senate Judicial Proceedings Committee

**FROM:** Christopher Dews, Policy Advocate

**DATE:** February 23, 2021

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 oppose Senate Bill 617 as a means of decriminalizing poverty and reducing the impact of incarceration for lower-income workers.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. As employment barriers increase for people with criminal records, so too does their likelihood of recidivism. With some state court systems – including Maryland – allowing information about one’s criminal record to be posted online, an individual’s criminal history is not only used for law enforcement purposes, but for hiring decisions. In Maryland, employers are able to access a prospective employee’s adult criminal record online at the click of a mouse, without context. This means that a person must explain their dated record even if the incident occurred decades ago or they were acquitted.

Many employers are unaware of the difference between various forms of convictions, charges, arrest warrants, or other possible entries on an individual’s criminal record, making any encounter with the criminal justice system a significant barrier to employment and housing. In addition, employers do not take into account whether an individual’s conviction *directly impacts* their ability to work or has any correlation to their skill set. Moreover, employers often refuse to hire applicants with a criminal record, even if they have never been convicted of a crime.

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 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.

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

Senate Bill 617 seeks to block expungement access for individuals who owe court-imposed fines or fees related to a charge. This bill does not take into account the defendant's ability to pay the imposed fines, offers no payment plan, and assumes that preventing the expungement will incentive payments. As was stated before, criminal records block access to employment and, with that, the wages needed to pay the fines. As the majority of interactions with the criminal justice system are by indigent individuals, this bill effectively ensures that they remain impoverished with no avenue to rise. JOTF strongly opposes efforts to increase barriers to economic mobility for Marylanders already saddled with arrests, charges, and convictions that ruin employment opportunities. For these reasons, we respectfully urge an unfavorable report on Senate Bill 617.

# **SB617 Testimony.pdf**

Uploaded by: Sweeney, Christopher

Position: UNF



MARYLAND HOUSE JUDICIARY COMMITTEE  
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE  
IN OPPOSITION TO: SB617 – CRIMINAL PROCEDURE -  
EXPUNGEMENT - ENTITLEMENT  
TUESDAY, FEBRUARY 23RD, 2021

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*EXECUTIVE DIRECTOR*

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Chair Smith and distinguished members of the committee, thank you for the opportunity to testify in opposition to Senate Bill 617.

My name is Christopher Sweeney and I am the Staff Attorney for the Workforce Development Project at the Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. Since MVLS’ founding in 1981, our statewide panel of over 1,700 volunteer lawyers, has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY20, MVLS volunteer and staff lawyers provided legal services to 4,459 people across the state. Through our Workforce Development project, we encounter many clients who face driver’s license suspensions and their collateral consequences. For the reasons explained below, we respectfully request an unfavorable report on Senate Bill 617.

MVLS’ Workforce Development Project is a partnership with occupational training programs in Baltimore City, and is a continuation of the Mayor’s Office’s ‘One Baltimore for Jobs’ pilot program. The Mayor’s Office of Employment Development began One Baltimore for Jobs as a response to the civil unrest in 2015. The project supports job programs, social services programs, and legal services programs in Baltimore, and connects those programs with support from state agencies such as the Office of Child Support and the Motor Vehicle Administration. Though funding for legal services via One Baltimore for Jobs has ended, MVLS has continued its part of the project and currently supports six workforce programs in Baltimore. MVLS works with Civic Works, Job Opportunities Task Force, Jane Addams Resource Corporation, Caroline Center, Bon Secours Community Works, Biotechnical Institute of Maryland, and Helping Up Mission to provide ‘wrap-around’ services – supplementing the trainees’ social services with legal services. The goal of the program is to make participants more job-ready by reducing barriers to employment.

Each of the clients I serve through the Workforce Development Project is enrolled in courses to receive job skills training and certification in areas such as welding, machine operation, nursing, pharmacy tech, construction, and weatherization. These non-profit programs are free to students, and are aimed at providing re-entry opportunities for those who were previously incarcerated or who simply lacked educational and employment opportunities due to the experiences of poverty. Many the clients MVLS serves through this program have been charged with crimes in the past. They are seeking to turn their lives around through sustainable employment. These clients are typically not working, or working very few hours, due to their enrollment in job training classes. We assist with criminal record expungement so that these clients

will be employable once they graduate from their programs. Placing additional burdens on those who are seeking to move forward with their lives will not be good for Maryland – it will mean less people with access to employment.

Because of our work serving Marylanders with low or no income, we respectfully oppose this bill's provision that would prevent expungement for people who owe fines to the court. In a typical year, I assist approximately 250 to 300 people with criminal record expungement. My clients live below or near the poverty line, and often cannot afford fines and fees that would seem reasonable to many people. The prohibition on expungement contained in this bill would create a 'catch-22' for people living in poverty who have a criminal record – they need to expunge their case to get a job, so they must pay the fee to expunge their case, but they cannot pay the fine without getting a job. Though it is reasonable to expect people to pay fees they've incurred, this provision would ultimately trap more people in the cycle of poverty rather than allowing them to move on with their lives.

A person's entitlement to seek relief from the court should not depend on their ability to pay fees assigned by that court. The Central Collections Unit exists to collect debt owed to state entities. Since a debt collection mechanism already exists for these court fees, adding additional hurdles for expungement is simply not necessary.

Regarding this bill's other provision related to sex offenses, it is our position that people who are charged with a crime, but not convicted, should be able to expunge the charge.

Maryland's General Assembly has taken great strides in the past several years to expand access to expungement. The ability to expunge cases where no guilty verdict was entered, and, more recently, certain non-violent convictions after a waiting period, has allowed countless Marylanders to re-enter the workforce and no longer be defined by their past mistakes. After several years of legislation that makes it easier to expunge cases, now is not the time to move backward by placing additional burdens on those who want to clean up their records.

Thank you, again, for the opportunity to testify. We respectfully request an unfavorable report on Senate Bill 617.