

2021-01-19 SB 114 (Support).pdf

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January 19, 2021

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

From: Office of the Attorney General

Re: SB0114 – Criminal Procedure – Expungement of Conviction – Driving While Privilege Is Canceled, Suspended, Refused, or Revoked – **Letter of Support**

The Office of Attorney General urges this Committee to support Senate Bill 114. The legislation allows a person to file a petition for expungement if the person is convicted of a misdemeanor because the person drove while the person's driver's license was canceled, suspended, refused, or revoked.

Modern criminal law "acknowledge[s] the importance of rehabilitation" and it is one of the main considerations behind criminal sentencing.¹ We want to provide a rehabilitation option for individuals so they can reintegrate into the society.² Without a rehabilitation opportunity, an individual will suffer through invisible punishments and face potential collateral consequences by having a criminal record.³ For example, a criminal history would potentially deny access to higher education, employment, travel restrictions, and unnecessary social stigma.⁴

Senate Bill 114 provides this rehabilitation option to reduce collateral consequences. The bill, consequently, provides a new opportunity for an individual to reintegrate into the society. The bill allows an individual to file a petition for expungement against a misdemeanor, which one received when one drove while one's driver's license was canceled, suspended, refused, or revoked. Providing an expungement opportunity is also proper because it reduces discrimination against individuals who may have rehabilitated and may not commit same actions again.⁵

¹ Eldar Haber, *Digital Expungement*, 77 MD. L. REV. 337, 340 (2018).

² *See id.* at 342.

³ *See id.*

⁴ *See id.* at 343.

⁵ *See id.* at 346.

Modern society should punish to reduce recidivism and such punishment should not impose an unnecessary social stigma.⁶

For the foregoing reasons, the Office of the Attorney General urges a favorable report of the Senate Bill 0114.

cc: Members of the Judicial Proceedings Committee

⁶ *See generally id.*

OPD Written Testimony_SB0114.pdf

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POSITION ON PROPOSED LEGISLATION

Bill: SB 0114 Criminal Law – Criminal Procedure-Expungement of Conviction-
Driving While Privilege Is Canceled, Suspended, Refused, or Revoked.

Position: Favorable

Date: January 15, 2021

The Office of the Public Defender supports SB 0114, which would allow a person convicted of a misdemeanor for driving while their license or privilege to drive was canceled, revoked, refused or suspended to petition for expungement. Involvement in the criminal legal process, even for misdemeanors, can have severe and lasting impacts on Marylanders. Simply being charged with a crime could result in the loss of a job, housing, or professional licenses. Additionally, it is important to highlight that traffic convictions can also have an unintended consequence of preventing other cases that would otherwise be eligible to be expunged, from being expunged. The State of Maryland moved in the right direction by eliminating the possibility of jail time for non-violent offenses such as driving on a suspended, canceled, refused or revoked license with the passage of HB 76 in 2019. This bill continues that positive momentum by allowing individuals to expunge these license-based convictions from their record.

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For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 114.

DPSCS_LOI_SB0114.pdf

Uploaded by: Kahl, Catherine

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Department of Public Safety and Correctional Services



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STATE OF MARYLAND

BILL: SENATE BILL 114

LAWRENCE J. HOGAN, JR.
GOVERNOR

POSITION: LETTER OF INFORMATION

BOYD K. RUTHERFORD
LT. GOVERNOR

EXPLANATION: This bill proposes allowing individuals to file for a petition of expungement when the person has been convicted of driving while the privilege is canceled, suspended, refused, or revoked under Transportation Article Title 16. **The Department does NOT have the ability to expunge these convictions as that function falls under the purview of the Motor Vehicle Administration.**

ROBERT L. GREEN
SECRETARY

RACHEL SESSA
CHIEF OF STAFF

CHRISTOPHER McCULLY
DEPUTY SECRETARY
ADMINISTRATION

COMMENTS:

WAYNE HILL
ACTING DEPUTY
SECRETARY OPERATIONS

- The Department of Public Safety and Correctional Services (DPSCS) houses the Criminal Justice Information System (CJIS) that is the repository for law enforcement to access criminal history record information, fingerprints, etc., and provides background checks to statutorily or regulatorily authorized entities.

CAROLYN J. SCRUGGS
ASSISTANT SECRETARY

- SB 114 adds § 16-303 of the Transportation Article to Criminal Procedure § 10 -110 which allows an individual to petition for an expungement of conviction(s) of driving while the privilege has been canceled, suspended, or revoked. Data expungement pursuant to the Transportation Article is the purview of the Motor Vehicle Administration.

GARY McLHINNEY
ASSISTANT SECRETARY

- Data about violations of traffic laws are not considered criminal history record information under Criminal Procedure Article § 10-201. These violations appear on an individual's driving record. As such, the Department is unable to expunge violations of traffic laws.

CATHERINE KAHL
ACTING DIRECTOR

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully asks this Committee to consider this information as it deliberates Senate Bill 114.