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

From: Carrie J. Williams
Office of the Attorney General

Re: SB 138 – Criminal Procedure—Expungement of Records—Expansion

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The Office of the Attorney General urges the Judicial Proceedings Committee to favorably report SB 138.

SB 138 expands the automatic expungement after three years for possession of marijuana arrests from those that occurred after October 1, 2021 to those that occurred after October 1, 2018. It also expands those cases entitled to expungement to include cases resolved by probation before judgment or a placement on the stet docket so long as all of the conditions of probation or the stet disposition have been satisfied.

Automatic expungement ensures that persons eligible for expungement for minor possession of marijuana charges receive the benefit to which they are entitled. By expanding the timeframe for automatic expungement, we are reducing the number of people forced to hire counsel or navigate the legal system in order to reap the benefits of expungement.

Expanding the entitlement of expungement to those who received a probation before judgment or a stet for possession of marijuana charges (assuming they satisfied the conditions of the disposition) is consistent with the evolving societal attitudes toward the possession of small amounts of marijuana. Those with diversionary-type dispositions like probation before judgment and placement on the stet docket should be entitled to expungement of these charges after they complete the terms of their diversionary disposition.

For these reasons, the Attorney General urges the Judicial Proceedings Committee to issue a favorable report for SB 138.

cc: Committee Members