

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
**IN SUPPORT WITH AMENDMENT OF SB16: CRIMINAL PROCEDURE –
EXPUNGEMENT – MISTAKEN IDENTITY**
FEBRUARY 1, 2022

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Chairman Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 16. My name is Chris Sweeney, and I am a staff attorney at Maryland Volunteer Lawyers Service (MVLS), where I manage our Workforce Development Project. MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders throughout the state. Since MVLS' founding in 1981, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. Through our Workforce Development project, we represent many clients seeking sustainable, fulfilling employment. One of the major barriers to employment is a criminal record, and we have represented over 750 clients in expungement proceedings. For the reasons explained below, MVLS respectfully requests the committee return a favorable report, with amendments, on SB16.

Our Workforce Development Project provides 'wrap-around' services – supplementing job 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 we serve through the Workforce Development Project is enrolled in courses to receive job skills training and certification in welding, machine operation, nursing, pharmacy tech, construction, and weatherization. These non-profit programs are free to students and aim to provide re-entry opportunities for the previously incarcerated or those who lacked educational and employment opportunities due to poverty. Criminal record expungement is my primary practice area through this project. Having met hundreds of clients seeking expungement, I have come across many people who have cases on their record as the result of mistaken identity. And shockingly, the process for correcting this is unclear at best and nonexistent at worst. If properly amended, SB16 would provide a process for rectifying mistakes that can have a significant impact on a person's life.

One issue that SB16 can address is best explained through a real-life example. The following story has happened to dozens of clients I have worked with. James is arrested and gives the police the name of Joseph, possibly the name of a friend or relative. Lacking identification, the police identify the suspect as Joseph. The courts process the case and mark down the defendant's name as Joseph. The case is disposed of one way or another, often getting dropped by prosecutors; however, the name attached to the case is never corrected. Years later, the real Joseph seeks to review his record for expungement eligibility, and finds this case. Joseph files to expunge the case, which triggers a fingerprint search by the police, who return a result showing that Joseph was not the person arrested in this case. Because Joseph is not actually the defendant, he does not have the right to file expungement. But the case remains on his record because no formal process exists to correct the defendant's name. I have

personally heard from judges, during court proceedings, that no legal remedy exists for this error.

Because the events described above clearly produce an unjust outcome, we at MVLS believe a formal process should exist for removing a false defendant from a criminal case. We recognize that SB16 is primarily aimed at remedying convictions where a person was falsely identified by witnesses, law enforcement, or other parties. We support this aim of the bill, but respectfully suggest amendments to codify a remedy for people whose name became attached to a criminal proceeding without their knowledge.

We suggest an amendment to SB16 that would add a process by which a person could file a petition or motion asking the court to find that their name is listed as a criminal defendant in error, and to have that name cleared from the case records.

Applying for a job only to have the employer confront you with a criminal case you did not know existed and that did not actually happen to you is a terrible scenario to face. Because SB16 aims to correct issues of mistaken identity, we believe that the addition of a remedy for such a scenario would be just and pertinent.

MVLS has been fighting to even the playing field for low-income Marylanders for decades, and we know that these members of our community face significant financial obstacles when trying to put their lives back on track. The need for our volunteer attorneys is pressing, but legislation like SB16 would lessen that burden. We support SB16 because it would help many Marylanders who have charges due to mistaken identity move their lives forward. If more people have access to quality jobs, we are on our way to a better Maryland and a better society. Expungement helps more people across Maryland obtain gainful employment, boosting our economy, and strengthening our community. We at MVLS respectfully request that you return a favorable report, with amendments, on SB16.

Mister Chairman and members of the Committee, thank you again for the opportunity to testify.