

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 138:

Criminal Procedure – Expungement of Records – Expansion

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

FROM: Christopher Dews, Senior Policy Advocate

DATE: February 1, 2022

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We support Senate Bill 138 as a means of expanding access to expungements for those not found guilty of a charge.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the 25% of working-age Marylanders with a record. The Collateral Consequences Resource Center estimates that there are over 1100 consequences of having a criminal record, including barriers to employment, housing, education, public assistance, and occupational licensing. Worse yet, in the state of Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. Anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged. 70% of employers in Maryland will conduct a background check on *all* of their job applicants and will deny employment on the basis of the appearance of a record, regardless if the individual was found guilty or not. For this reason, if we desire to ensure solid access to employment for all workers- especially for those who *have not* been convicted of a crime, automatic expungement of *all* non-convictions is necessary.

In 2021, the Maryland General Assembly [passed legislation](#) that allowed for the automatic expungement of certain non-convictions (acquittals, dismissals, and nolle pros)- allowing for more than 77,000 Marylanders to have not-guilty verdicts expunged from their records without having to petition. This was a phenomenal success but probations before judgment (PBJs) and stets were removed from the bill in last-minute negotiations.

A probation before judgment means that a person has been placed on probation before any criminal judgment has been entered against them. Once the terms of probation are fully completed, the [charge is then considered a non-conviction](#). It is a somewhat similar situation with stets. [A stet, which literally means “let it stand”](#), indicates that a case has been listed as *inactive* by the court. The charges are not dropped, nor is the defendant determined to be innocent or guilty. Again, the individual is not convicted and the charges are suspended almost indefinitely.

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In Maryland, the expungement of PBJs and stets are not automatic. To begin the process of expungement, a petitioner must file a petition for expungement with the court under [§ 10-105](#) or [§ 10-110](#) of the Criminal Procedure Article for every interaction with the criminal justice system. Due to Maryland's statute of limitations, a court or police record may not be expunged by obliteration until three (3) years after the disposition of the charge. Both [probations before judgment \(PBJs\)](#) and [stets are available for a petition of expungement three years](#) after the satisfactory completion of any probationary standards. There is no cost for the expungement of charges that did not result in a conviction; however, a written petition requesting expungement of records is required.

Many individuals with non-conviction charges, PBJs, or stets are wholly unaware that they even have a criminal record that is viewable by the public. As such, they do not move to seek expungement because they were not found guilty. As a result, thousands of Marylanders are stuck with dated records, many of which are non-convictions that hinder their ability to secure employment.

Senate Bill 138 seeks to address this issue by expanding on the [recently created automatic expungement statute](#) by adding certain PBJs and stets to the list. A criminal record for probationary charges that have been dropped or voided in the court system should not hang over anyone's head. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in the state of Maryland. Senate Bill 138 does just that- it removes another unnecessarily punitive barrier to employment. For these reasons, we respectfully urge a favorable report of Senate Bill 138.