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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 016**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: 1/28/2022**

Testimony in Support of SB 16

TO: Members of the Senate Judiciary Committees  
From: Mary Denise Davis, Chief Attorney, Central Booking Bail Unit  
Date: Jan 28, 2022

The Office of the Public Defender supports SB 16.

Our Office established a weekly expungement clinic over a decade ago. I have worked with numerous clients who find themselves with a “criminal record” of a case that is not even theirs.

The person who is alleged to have committed a crime provides a different name. Or, a person goes to the Commissioner providing an incorrect name and/or information when they are pressing charges. This could be a simple error or it can be intentional. When the case is called by the State’s Attorney and our client is in the courtroom, the mistake is realized. A discussion is held and once it is verified, the matter is usually dismissed. A simple solution that seems to end the problem, but it does not.

Our client who was charged will find themselves in a Catch 22 situation when they try to file for expungement. One group is saying it is not theirs and one group is saying it is theirs. The client files for expungement for the case where they are named but the Judge denies the expungement request if there’s an objection by the State’s Attorney. The Judge says you are not the “proper” defendant to file this expungement petition. Or, the client applies for a job and the case appears on their own background check but they have no way to “prove” that the case was never theirs.

A criminal record is not just what is on a person’s RAP sheet but it must also be considered what is available on Maryland Judiciary Case Search and the information that has been

obtained and disseminated by private databases. Private databases are using publicly accessible information that supports a 2+ billion dollar industry, according to an article published by IBIS World in November 2020. However, there is no regulation of these private databases.

SB 16 will end the confusion when it comes to who can file and who can be granted an expungement if filed by a person who was charged with a crime but that person's information was used by mistake. The Public Defender's Office supports SB 16. . Clients should never have to explain a criminal case that was not theirs. The impact of having these erroneous charges on their record can be devastating.

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**Submitted by: Government Relations Division of the Maryland Office of the Public Defender.**

**Written by: Mary Denise Davis, Chief Attorney of the Central Booking and Bail Unit at the Maryland Office of the Public Defender.**