

Testimony of the Human Trafficking Prevention Project The University of Baltimore School of Law

BILL NO: Senate Bill 710
TITLE: Criminal Procedure — Expungement of Records — Modification
COMMITTEE: Judiciary
HEARING DATE: March 08, 2022
POSITION: **FAVORABLE WITH SPONSOR
AMENDMENTS**

Senate Bill 710 with sponsor amendments would amend Maryland’s expungement law, primarily by shortening the required waiting periods for applying for expungement, and by expanding the initial eligibility for expungement to all misdemeanors. The Human Trafficking Prevention Project at the University of Baltimore School of Law supports this bill because it will enhance the effectiveness of Maryland’s expungement framework by providing improved access to criminal record relief for all Marylanders, including survivors of human trafficking.

Many individuals struggle with the collateral consequences of a criminal record, regardless of the outcome of the charges against them.¹ Because an individual’s criminal history is used for myriad purposes outside of the courtroom, many people with criminal histories are instantly shut out from basic opportunities because of their record.² SB 710 expands access to expungement to include all misdemeanors as well as nonviolent felony convictions.³ The expansion of Maryland’s expungement law to include these additional offenses will result in the removal of barriers for Marylanders seeking access to education, employment, housing, public assistance, and occupational licensing, among many others.⁴

In addition to expanding the number of convictions eligible for expungement, SB 710 would also reduce the waiting periods for accessing expungement. Maryland has drastically longer expungement waiting periods than most other states in the nation, which creates major obstacles for Marylanders hoping to petition for relief.⁵ Longer waiting periods have historically reflected the belief that individuals should only be eligible for expungement after successfully showcasing their rehabilitation through a period of

¹ Sarah B. Berson, *Beyond the Sentence- Understanding Collateral Consequences*, NIJ Journal, 272 (2013).

² U.S. Comm’n on Civ. Rts., *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities*, 2 (2019), (“Individuals with criminal histories can face barriers to voting, serving on a jury, holding public office, securing employment, obtaining housing, receiving public assistance, owning a firearm, getting a driver’s license, qualifying for financial aid and college admission, qualifying for military service, and deportation .”).

³ Waiting periods still apply, as does the completion of any jail time and mandatory supervision, including parole and probation.

⁴ See supra, note 2.

⁵ Margaret Love & David Schlusell, *Waiting for Relief, A National Survey of Waiting Periods for Record Clearing*, Collateral Consequences Resource Center, 1-5 (2022) (showing 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah. With regards to non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma).

crime-free behavior.⁶ However, many states have since shortened waiting periods in recognition of the inverse, which is that record clearing actually plays a constructive role in facilitating the crime-free rehabilitation most expungement statutes require,⁷ and that lengthy waiting periods may actually contribute to recidivism rather than discourage it.⁸ SB 710 would support this research by reducing waiting periods for both non-convictions and convictions alike.

It is also important to note that criminal records are both a predictor and the result of exposure to human trafficking. Criminal convictions create significant barriers to individuals who seek to find lawful employment, safe housing and education and continue to haunt trafficking survivors long after they escape their trafficking situation. Data obtained from a national survey of both sex and labor trafficking survivors shows 91% of survivors reporting having been arrested at some point in their lives with over 50% of those survivors stating that every single arrest on their record was a direct result of their trafficking experience.⁹ Of the 24.6% of respondents who reported they had cleared, or had begun to clear their records, all reported it was a long and painful process.¹⁰ Given the fundamental injustice that so many survivors are forced to struggle with the consequences of a criminal record that so often stems from crimes they were compelled to commit, it is essential that any state-based remedy allow for the broadest possible relief, rather than impose additional hurdles that prevent survivors from moving forward with their lives.¹¹

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. Reducing excessive waiting periods and significant eligibility restrictions supports proactive rehabilitation and will allow all Marylanders, including criminalized survivors, to escape the shadow of their criminal records. For these reasons, the Human Trafficking Prevention Project supports Senate Bill 710 with sponsor amendments, and respectfully urges a favorable report.

**For more information, please contact:
Jessica Emerson, LMSW, Esq.
jemerson@ubalt.edu**

⁶ Brian M. Murray, *Retributive Expungement*, 169 U. Pa. L. Rev. 665, 683 (2021), https://www.pennlawreview.com/wp-content/uploads/2021/05/Murray_Final.pdf.

⁷ J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 Harvard L. Rev. 2460, 2479 (2020), <https://harvardlawreview.org/2020/06/expungement-of-criminal-convictions-an-empirical-study/>.

⁸ *Research on Recidivism and Employment*, Nat'l Inst. Of Justice, <http://www.nij.gov/topics/corrections/reentry/pages/employment.aspx>.

⁹ National Survivor Network Members Survey, *Impact of Criminal Arrest and Detention on Survivors of Human Trafficking*, (2016), <https://nationalsurvivornetwork.org/wpcontent/uploads/2017/12/VacateSurveyFinal.pdf>.

¹⁰ *Id.*

¹¹ Suzannah Phillips et. al., *Clearing the Slate*, City Univ. of N.Y. Sch. of Law. Int'l Women's Human Rights Clinic (2014), <https://ncjtc-static.fvtc.edu/Resources/RS00002861.pdf>.