

SB0710_FAV_HOPE.pdf

Uploaded by: Antoin Quarles

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Antoin Quarles , Executive Director

DATE: March 8th, 2022

H.O.P.E. empowers men and women to make the transition from incarceration to community successfully and permanently. We help connect returning citizens with practical matters to remove barriers of reentry, such as resources for job and GED training; managing case-worker and other appointments; and developing new coping skills, accountability, life laws, and strong relationships to help deal with the stresses of life outside jail or prison, as well as deeper hurt and trauma. We support Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A

2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgement
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a

decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.

SB0710_Arielle Juberg_FAV.pdf

Uploaded by: Arielle Juberg

Position: FAV

SB0710, Criminal Procedure - Expungement of Records - Modifications
Testimony in **Support**

To: Chair Smith and members of the Judicial Proceedings Committee
From: Arielle Juberg, Baltimore, Maryland 21234

My name is Arielle Juberg. I am a resident of Baltimore County in District 8. I belong to Showing Up for Racial Justice (SURJ) in Baltimore. SURJ is also working in collaboration with Out for Justice and Job Opportunities Task Force. I am testifying in **support** of SB0710, Criminal Procedure - Expungement of Records – Modifications.

SB0710 matters to me because Marylanders deserve a second chance. Once someone has served their sentence for a nonviolent misdemeanor, it should not follow them for the rest of their life. Excluding someone from a job or an apartment because of a misdemeanor in their past erects unnecessary barriers. It also hurts our communities when people are blocked from jobs or homes because of a mistake in their past.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland. This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of SB0710**. Thank you for your time, consideration, and service.

SB0710_Expungement_MLC_FAV.pdf

Uploaded by: Cecilia Plante

Position: FAV



TESTIMONY FOR SB0710

Criminal Procedure - Expungement of Records - Modifications

Bill Sponsor: Senator Patterson

Committee: Judicial Proceedings

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: **FAVORABLE**

I am submitting this testimony in favor of SB0710 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists and our Coalition supports well over 30,000 members.

This bill will allow for individuals who have had charges related to an arrest warrant expunged three years after the disposition of the charge. Between the time that the individual requests expungement and the three-year period, the charges will be moved to a separate secured area, which will require special permission for anyone to access and can only be accessed in relation to a proceeding regarding the original arrest or charge.

Persons who have committed a crime of violence, a hate crime, a crime of animal cruelty or a sex crime cannot have those records expunged.

The net result of this will be to allow individuals who have committed minor infractions of the law to have their records expunged so they will be able to gain employment and schooling without their past record impeding them.

We strongly support this bill and recommend a **FAVORABLE** report in committee.

Maryland REDEEM Act of 2022 - Fact Sheet.docx (1).

Uploaded by: Christopher Dews

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

SUPPORT SB710/HB1442: THE MARYLAND REDEEM ACT OF 2022

Reduce the Waiting Periods for Criminal Record Expungement

THE CHALLENGE

- According to the National Employment Law Project (NELP), one in three US adults have a criminal record that will surface in a routine background check. In Maryland, it is estimated that 1.5 million residents, nearly 25% of the state's population, have a criminal record.
- Criminal records can serve as both the cause and consequence of poverty. The ability to secure stable employment is crucial to the successful reentry of those individuals who have experienced incarceration. Unfortunately, a criminal record can serve as an insurmountable barrier to securing gainful employment and other critical resources, even if the record did not result in a conviction.
- One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: **up to 60 percent of formerly incarcerated persons remain unemployed one year** after their release.
- More than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half.

CURRENT EXPUNGEMENT POLICY

- Charges that did **not** result in a guilty conviction are eligible for expungement:
 - Three (3) years after your case is decided. You may file for expungement earlier if you also sign a general release and waiver of all legal claims.
 - Probations Before Judgment (PBJs) are eligible for expungement three (3) years after the completion of probation.
 - Additionally, under current Maryland law, charges that arise from the same incident, transaction, or set of facts are considered a 'unit of charges'. Therefore, if a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to expungement of **any other charge within the unit.**
- Charges that **did** result in a guilty conviction are eligible for expungement:
 - Nuisance crime(s) are eligible three (3) years after a guilty conviction or the satisfactory completion of the sentence, including probation.
 - Under the Maryland Second Chance Act, certain crimes can be shielded from public view, but **only one** petition can be filed in a lifetime.
 - Under the Justice Reinvestment Act, certain crimes are eligible ten (10) years after a guilty conviction or the satisfactory completion of the sentence, including probation.
 - In Oct 2018, three felonies are now eligible for expungement – possession w/ intent to distribute, burglary, and theft.
- Other States:
 - [Maryland ranks 42nd on waiting period length](#) for misdemeanor expungement and 35th on expungement waiting periods for non-violent felonies. We are far behind Mississippi, West Virginia, Colorado, North Dakota and more.
 - [Missouri reduced misdemeanor waiting periods](#) from 10 to *one* year. They also reduced most felony convictions (which is much broader than the REDEEM Act) from 20 years down to three.
 - [New Jersey reduced its waiting periods](#) for single felonies to 5 years and misdemeanors down to 3 years.
 - [Oregon has reduced their toughest misdemeanors down](#) to 3 years *from the date of conviction* and Class C felonies down to 5 *from the date of conviction*.

THE SOLUTION: PASS THE REDEEM ACT

- Reduce the expungement waiting periods of non-convictions, PBJs, and stets to within **one year** after the disposition.
- Allow misdemeanors and ***nonviolent*** felony convictions to be eligible for expungement within **three (3) and (5) years**, respectively, ***after the completion of the sentence***, possible drug treatment, ***and*** any mandatory supervision, including parole and probation.
- Grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million **Marylanders (REDEEM)** who are shut out of the workforce due to a criminal record.

For more information, contact:

Christopher Dews / Senior Policy Advocate / 301-412-5399 / christopher@jotf.org

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

GLOSSARY OF TERMS: RESTRICTING PUBLIC ACCESS TO CRIMINAL RECORDS

Criminal Record Expungement

According to Maryland Code, Criminal Procedure, §10-101:

- (d) “Expunge” means to remove information from public inspection in accordance with this subtitle.
- (e) “Expungement” with respect to a court record or a police record means removal from public inspection:
 - (1) by obliteration;
 - (2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access

Criminal Record Shielding (applicable only under Maryland Second Chance Act of 2015)

According to Maryland Code, Criminal Procedure, §10-301:

- (e) “Shield” means to render a court record and police record relating to a conviction of a crime inaccessible by members of the public.

According to Maryland Code, Criminal Procedure, §10-302:

- (b) A shielded record shall remain fully accessible by:
 - (1) criminal justice units for legitimate criminal justice purposes;
 - (2) prospective or current employers or government licensing agencies that are subject to a statutory or regulatory requirement or authorization to inquire into the criminal background of an applicant or employee for purposes of carrying out that requirement or authorization;
 - (3) a person that is authorized or required to inquire into an individual’s criminal background under § 5-561(b), (c), (d), (e), (f), or (g) of the Family Law Article;
 - (4) the person who is the subject of the shielded record and that person’s attorney;
 - (5) health occupations boards established under the Health Occupations Article;
 - (6) the Natalie M. LaPrade Medical Cannabis Commission established under Title 13, Subtitle 33 of the Health – General Article;
 - (7) a person that uses volunteers who care for or supervise children;
 - (8) a person that attests under the penalty of perjury that the person employs or seeks to employ an individual to care for or supervise a minor or vulnerable adult, as defined in § 3-604 of the Criminal Law Article; and
 - (9) a person who is accessing a shielded record on behalf of and with written authorization from a person or governmental entity described in items (1) through (8) of this subsection.

Vacature

According to Maryland Code, Criminal Procedure, §8-301.1, Maryland law provides for the vacature of a probation before judgment or conviction if:

- (1) (i) there is newly discovered evidence that:
 - 1. could not have been discovered by due diligence in time to move for a new trial under Maryland Rule 4-331(c); and
 - 2. creates a substantial or significant probability that the result would have been different; or
- (ii) the State’s Attorney received new information after the entry of a probation before judgment or judgment of conviction that calls into question the integrity of the probation before judgment or conviction; and
- (2) the interest of justice and fairness justifies vacating the probation before judgment or conviction.

NOTE: When a conviction has been vacated, it is then eligible for criminal record expungement or shielding. Vacating a conviction is not the same as record expungement or shielding.

REDEEMACT_FAV_SIGNON.pdf

Uploaded by: Christopher Dews

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 710/ HOUSE BILL 1442:

Criminal Procedure – Expungement of Records – Modifications

TO: Members of the Senate Judicial Proceedings and House Judiciary Committee

FROM: Christopher Dews, Senior Policy Advocate

DATE: March 8th, 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 The REDEEM Act as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, The REDEEM Act’s provisions do not affect violent crimes in any way. The REDEEM Act specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgement
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of The REDEEM Act are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on The REDEEM Act and are open to discussing the provisions of the bill with the committee members.

The Undersigned Organizations/Individuals Support The REDEEM Act

1. Out for Justice
2. Life After Release
3. Helping Oppressed People Excel (H.O.P.E.)
4. Maryland Nonprofits

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

5. Public Justice Center
6. Maryland Community Action Partnership
7. Maryland Alliance for Justice Reform
8. The People's Commission to Decriminalize Maryland
9. Baltimore Action Legal Team
10. Office of the Public Defender
11. Healthcare for the Homeless
12. Homeless Persons Representation Project
13. Maryland Volunteers Lawyer's Service
14. Maryland Legal Aid
15. Court WatchPG
16. Becca Gardner
17. Maryland Office of the Public Defender



SB0710_FAV_JOTF.pdf

Uploaded by: Christopher Dews

Position: FAV



Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Senior Policy Advocate

DATE: March 8th, 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 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgement
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.

Waiting-Periods-Draft.2.22.21-2.pdf

Uploaded by: Christopher Dews

Position: FAV

Waiting for Relief:

A National Survey of Waiting Periods for Record Clearing

By Margaret Love & David Schlusel

February 2022



COLLATERAL CONSEQUENCES RESOURCE CENTER

The Collateral Consequences Resource Center (CCRC) is a non-profit organization established in 2014 to promote public engagement on the myriad issues raised by the collateral consequences of arrest or conviction. Collateral consequences are the legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed. The Center provides news and commentary about this dynamic area of the law, and a variety of research and practice materials aimed at legal and policy advocates, courts, scholars, lawmakers, and those most directly affected by criminal justice involvement.

Through our flagship resource, the [Restoration of Rights Project](#) (RRP), we describe and analyze the various laws and practices relating to restoration of rights and criminal record relief in each U.S. jurisdiction. In addition to these state-by-state profiles, a series of 50-state comparison charts and periodic reports on new enactments make it possible to see national patterns and emerging trends in formal efforts to mitigate the adverse impact of a criminal record. We develop and advocate for policy reforms, provide technical support to those working to expand restoration mechanisms, participate in court cases challenging specific collateral consequences, and engage with social media and journalists on these issues. For more information, visit the CCRC website at <http://ccresourcecenter.org>.

Preparation of this report was made possible by a generous grant from Arnold Ventures.

Citation: Margaret Love & David Schlussel, *Waiting for Relief: A National Survey of Waiting Periods for Record Clearing*, Collateral Consequences Res. Ctr. (Feb. 2022)

Waiting for Relief:

A National Survey of Waiting Periods for Record Clearing

By Margaret Love & David Schlusell

Table of Contents

Introduction and Overview	1
50-State Table #1: Misdemeanor Convictions	4
50-State Table #2: Felony Convictions	5
50-State Maps	6
Appendix	7

Introduction and Overview

- **Background:** This report is the first-ever comprehensive national survey of the period of time a person, who is otherwise eligible to expunge or seal a misdemeanor or felony conviction record, must wait before obtaining this relief. Waiting periods are usually established by statute and can range from 0 to 20 years, a period that typically (though by no means invariably) commences after completion of the court-imposed sentence. Also typically, during a waiting period the person must be free from certain forms of involvement with the justice system: from a felony conviction, from any conviction, or from any arrest, again depending on state law. These and other conditions and circumstances may extend (or occasionally shorten) the length of a waiting period in specific cases.
- **Contents of the Report:** Following this introduction, the report consists of two 50-state Tables, one showing the waiting periods applicable to clearing of misdemeanors, and the other showing the waiting periods applicable to clearing of felonies, with states that have no general record clearing listed at the bottom of each table. The Tables are followed by maps showing the geographical distribution of waiting periods for each type of conviction. The maps are followed by an appendix describing in greater detail the laws governing waiting periods in each of the jurisdictions studied.
- **Summary of 50-state research results:**
 - The waiting periods for misdemeanor convictions range from a high of 10 or 15 years in Maryland (depending on the nature of the offense) to 0 years in Mississippi (although only first-time offenses are eligible), with most states falling at the lower end of that range. Of the 44 states that authorize clearing of misdemeanor convictions, a near-majority have waiting periods of 3 years or less (19 states) and the vast majority have waiting periods of 5 years or less (35 states).
 - The waiting periods for felony convictions range from as high as 10 or 20 years in North Carolina to as low as 0-2 years in California, with most states falling at the lower end of that range. Of the 35 states that authorize clearing of felony convictions, a near-majority have waiting periods of 7 years or less (17 states).
- **Comment on methodology:** This report deals only with waiting periods, and only with those applicable to general record clearing of felony and misdemeanor

convictions. Different waiting periods may apply to specialized record-clearing programs such as those that apply to victims of human trafficking, decriminalized offenses (e.g., marijuana), and so-called youthful offender programs. It also does not take account of other eligibility requirements that typically apply that could extend the waiting period, including completion of supervision and/or payment of court debt, or potential extensions related to prior, subsequent, and pending criminal matters. It does not consider provisions allowing the DA to consent to shorten waiting periods.

The Tables are based only on the length of the waiting period specified in statute. Insofar as practicable, the charts account for differences in when the waiting period commences (e.g., upon conviction, upon release from incarceration, upon completion of supervision, upon completion of sentence including payment of court debt). Further information about states in the far righthand column of the Tables may be found in the state-specific write-ups in the Appendix or in the state-specific profiles from CCRC's [Restoration of Rights Project](#).

- **Considerations for assessing the efficacy of waiting periods:** In assessing how waiting periods affect the efficacy of a particular state's record clearing system, it is important to consider whether some states with shorter waiting periods authorize clearance of a narrower set of convictions, and, conversely, whether some states with longer periods may authorize clearing of a broader set of convictions. In many if not most cases, other variables (including but not limited to those mentioned in the foregoing paragraph) will have to be brought into play to provide a fair assessment.
- **The changing concept (and length) of waiting periods:** Many waiting periods, notably longer ones, reflect a concept of record clearing via expungement or sealing as "recognition of successful rehabilitation and reason to terminate legal disqualifications and disabilities."¹ In recent years, however, many states have shortened waiting periods in recognition of the constructive role that record clearance plays in facilitating reentry and rehabilitation, reasoning that individuals "need the most assistance immediately after release from prison or termination of sentence."²

¹ James Jacobs, *THE ETERNAL CRIMINAL RECORD* 131 (Harvard Univ. Press 2015).

² *Id.* See also Brian M. Murray, *Retributive Expungement*, 169 U. Pa. L. Rev. 665, 695 (2021); J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 Harvard L. Rev. 2460, 2479 (2020); Jeffrey Selbin et al., *Unmarked? Criminal Record Clearing and Employment Outcomes*, 108 J. Crim. L. Criminology 1, 52 (2018).

Since 2016, thirteen (13) states have reduced their waiting periods, four (4) states more than once. The seven (7) states that have enacted a general conviction sealing authority for the first time since 2018 have generally (though not invariably) provided shorter waiting periods than states with more venerable systems.³ States that have reduced their waiting periods in recent years, or enacted new record clearing laws for the first time, tend to be geographically and politically diverse. The Tables show that the states with the longest waiting periods in the country are on the East Coast, with all but one in the Mid-Atlantic region.

- **Waiting periods and public safety:** Data on recidivism dating from the 1990s reinforced policy arguments that waiting periods should be long enough to reduce the risk of reoffending after record clearance. But new research on recidivism suggests that shorter waiting periods need not raise public safety concerns. Researchers at the RAND Corporation have raised questions about decades of received truth about the prevalence of reoffending after people leave prison, proposing that the majority of individuals with a conviction do not have a subsequent conviction, and that a person's likelihood of being convicted again declines rapidly as more time passes.⁴ This new research would seem to cast doubt on the legitimacy of concerns that shortening waiting periods necessarily raises public safety concerns. Indeed, to the contrary, it suggests that it may be possible to reconcile the seemingly inconsistent policy goals of facilitating and recognizing rehabilitation through shorter waiting periods.

³ States that have reduced their eligibility waiting periods since 2016 are Arkansas, Massachusetts, Michigan, Missouri (twice), Nevada, New Jersey (twice), North Carolina, Ohio, Oklahoma (twice), Oregon, South Dakota, Vermont (twice), Washington. States that have enacted a general conviction sealing authority for the first time since 2018 are Alabama, Arizona, Connecticut, New Mexico, North Dakota, Virginia, West Virginia. Additional information about waiting periods in these states can be found in the [Restoration of Rights Project](#).

⁴ Shawn Bushway et al., *Providing Another Chance: Resetting Recidivism Risk in Criminal Background Checks*, RAND Corp. (2022), <https://doi.org/10.7249/RR1360-1>.

50-State Table #1: Misdemeanor Convictions
Waiting Periods for Record Clearing (Expungement or Sealing)

	No waiting period	From conviction	From completion of incarceration	From completion of incarceration and supervision	From another starting point*
<3	MS: 0 yrs.			WV: 1 or 2 yrs.	CA: 0 or 1 yrs.
<3					OH, MO: 1 yr.
<3					TX: 0 or 2 yrs.
<3					NV: 1 or 2 yrs.
<3					NM: 2 yrs.
<5		AL, ND: 3 yrs.	OR: 1 or 3 yrs.	CO, KS: 3 yrs.	AZ, NH: 2 or 3 yrs.
<5			MA: 3 yrs.		IL, WA: 3 yrs.
<5				MN: 2 or 4 yrs.	GA: 4 yrs.
<6		SC: 3 or 5 yrs.		OK: 0 or 5 yrs.	AR: 0 or 5 yrs.
<6				UT: 3 or 5 yrs. [†]	MI, NJ: 3 or 5 yrs. [†]
<6		IN, SD: 5 yrs.		KY, LA, RI, TN, VT, WY: 5 yrs.	MT: 5 yrs.
<8			VA: 7 yrs.		DE: 3-7 yrs. [†]
<8				NC: 5 or 7 yrs.	CT: 7 yrs.
<10		IA: 8 yrs.		DC: 8 yrs.	
10+		PA: 10 yrs.	NY: 10 yrs.	MD: 10 or 15 yrs.	
AK, Federal, FL, HI, ID, ME, NE, WI: No general record clearing for misdemeanor convictions					

* See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start, A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

[†] These states' automatic record clearing laws have different waiting periods (than those reflected in the chart): 5 years in Delaware; 7 years in Michigan; 10 years in New Jersey; and 5, 6, or 7 years in Utah. See the Appendix for more information.

50-State Table #2: Felony Convictions

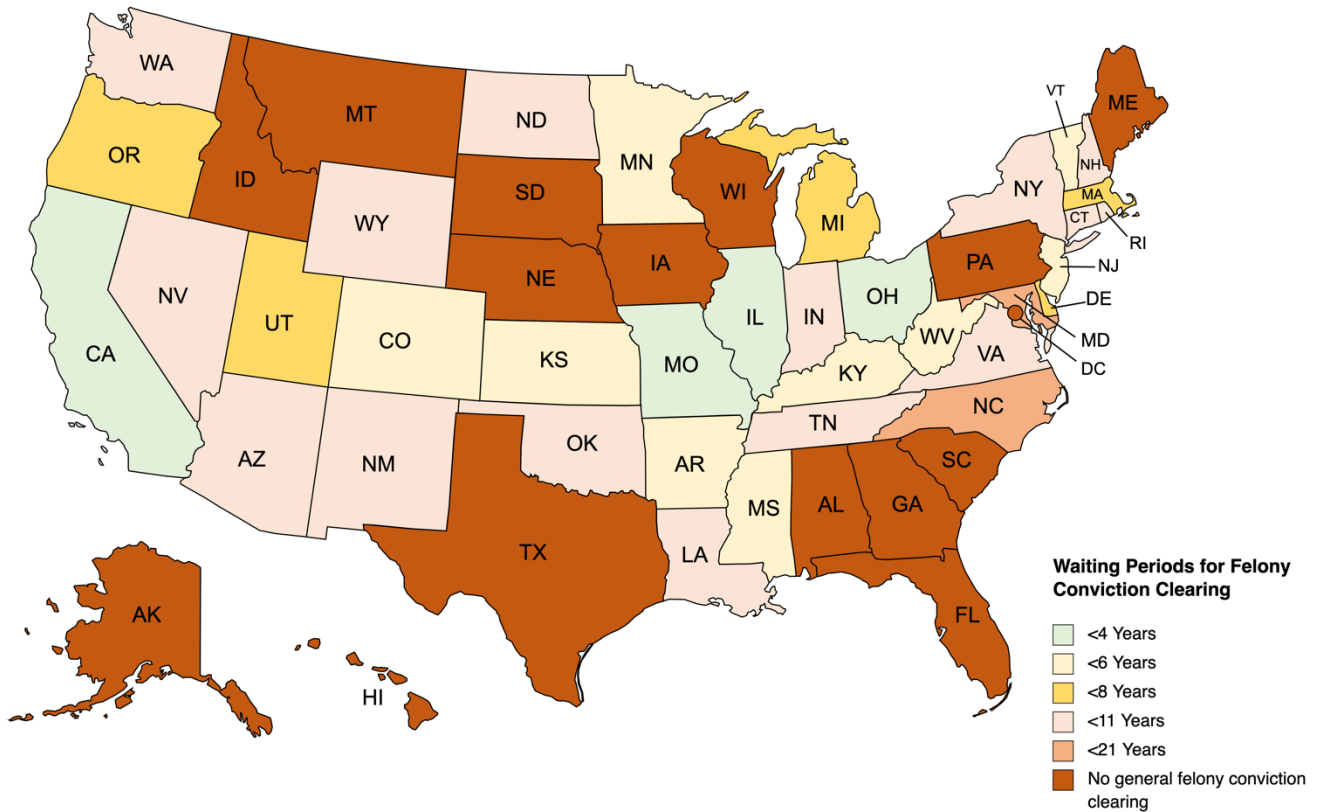
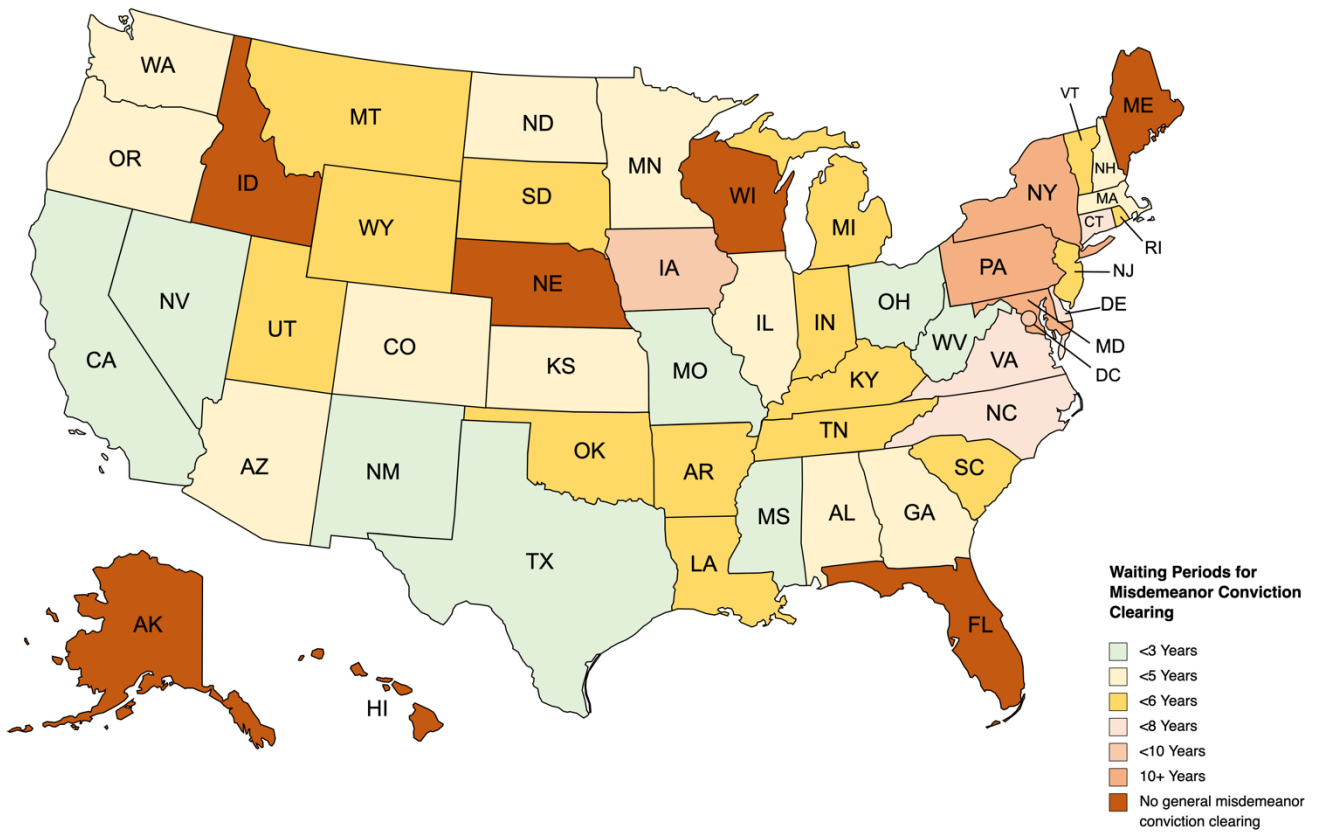
Waiting Periods for Record Clearing (e.g., Expungement or Sealing)

	From conviction	From completion of incarceration	From completion of incarceration & supervision	From another starting point [‡]
<4				CA: 0-2 yrs.
<4				OH: 1 or 3 yrs.
<4				IL, MO: 3 yrs.
<6				AR: 0 or 5 yrs.
<6			CO: 3 or 5 yrs.	NJ: 4 or 5 yrs. [§]
<6			KS, KY, MN, VT, WV: 5 yrs.	MS: 5 yrs.
<8		OR: 5 or 7 yrs.	UT: 7 yrs.	MI: 5 or 7 yrs. [§]
<8		MA: 7 yrs.		DE: 7 yrs. [§]
<11	ND: 5 or 10 yrs.	NY, VA: 10 yrs.	OK, TN, WA: 5 or 10 yrs.	NV: 2-10 yrs.
<11	IN: 8 or 10 yrs.		LA, RI: 10 yrs.	NM: 4-10 yrs.
<11				AZ, NH: 5 or 10 yrs.
<11				CT, WY: 10 yrs.
<21			NC: 10 or 20 yrs.	
<21			MD: 15 yrs.	
AL, AK, DC, Federal, FL, GA, HI, ID, IA, ME, MT, NE, PA, SC, SD, TX, WI: No general record clearing for felony convictions				

[‡] See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start, A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

[§] These states' automatic record clearing laws have different waiting periods (than those reflected in the chart): 10 years in Delaware; 10 years in Michigan; and 10 years in New Jersey. See the Appendix for more information.

50-State Maps



Appendix

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Alabama	Misdemeanor	“date of conviction”	3	Ala. Code § 15-27-1(b)(2)
	Felony	No general felony record clearing	N/A	N/A
Alaska	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Arizona	Misdemeanor	“completed the conditions of probation or sentence and was discharged by the court”	2 or 3	Ariz. Rev. Stat. § 13-911(e)
	Felony	“completed the conditions of probation or sentence and was discharged by the court”	5 or 10	Ariz. Rev. Stat. § 13-911(e)
Arkansas	Misdemeanor	“Completion of the person’s sentence,” defined to include custody time, monetary obligations, community service, discharge from probation or parole, suspended sentence, training programs that were conditions of supervision, and driving reinstatement requirements and fees	0 or 5	Ark. Code Ann. §§ 16-90-1404(1), -1405
	Felony	“Completion of the person’s sentence,” defined to include custody time, monetary obligations, community service, discharge from probation or parole, suspended sentence, training programs that were conditions of supervision, and driving reinstatement requirements and fees	0 or 5	Ark. Code Ann. §§ 16-90-1404(1), -1406
California	Misdemeanor	<i>Discretionary relief:</i> 0 or 1 years after “pronouncement of judgment”; <i>Mandatory relief:</i> upon early termination of probation or completion of its conditions; <i>Automatic relief:</i> completion of probation without revocation or “completed their sentence” and 1-year elapsed after judgment	0 or 1	Cal. Penal Code §§ 1203.4, 1203.4a, 1203.425
	Felony	<i>Petition-based relief:</i> 1 or 2 years after “completion of the sentence”; <i>Automatic relief:</i> completion of probation without revocation	0, 1, or 2	Cal. Penal Code §§ 1203.4, 1203.41, 1203.42,

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
				1203.4a, 1203.425
Colorado	Misdemeanor	“the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction”	3	Colo. Rev. Stat. § 24-72-706(1)(b)
	Felony	“the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction”	3 or 5	Colo. Rev. Stat. § 24-72-706(1)(b)
Connecticut	Misdemeanor	<i>Automatic erasure:</i> “the date on which the court entered the convicted person's most recent judgment of conviction”	7	Conn. Gen. Stat. § 54-142a(e)
	Felony	<i>Automatic erasure:</i> “the date on which the court entered the convicted person's most recent judgment of conviction”	10	Conn. Gen. Stat. § 54-142a(e)
Delaware	Misdemeanor	<i>Discretionary relief:</i> 3 or 7 years from “date of conviction or the date of release from incarceration, whichever is later”; <i>Mandatory & automatic relief:</i> 5 years after “date of conviction”	3, 5, or 7	Del. Code Ann. tit. 11, §§ 4373, 4374A, 4374
	Felony	<i>Discretionary relief:</i> 7 years after “date of conviction or the date of release from incarceration, whichever is later”; <i>Mandatory & automatic relief:</i> 10 years after “date of conviction or the date of release from incarceration, whichever is later”	7 or 10	Del. Code Ann. tit. 11, §§ 4373, 4374A, 4374
District of Columbia	Misdemeanor	“completion of the movant's sentence,” defined to mean “unconditionally discharged from incarceration, commitment, probation, parole, or supervised release, whichever is latest.”	8	D.C. Code § 16-801, -803
	Felony	No general felony record clearing	N/A	N/A
Florida	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Georgia	Misdemeanor	Since “convicted of any crime in any jurisdiction...excluding any conviction for a nonserious traffic offense”	4	Ga. Code Ann. § 35-3-37(j)(4)(a)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Georgia	Felony	No general felony record clearing	N/A	N/A
Hawaii	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Idaho	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Illinois	Misdemeanor	“termination of the petitioner's last sentence”; “last sentence” means the “sentence, order of supervision, or order of qualified probation...that terminates last in time in any jurisdiction...”; “terminate” includes “satisfactory or unsatisfactory termination...”	3	20 Ill. Comp. Stat. 2630/5.2
	Felony	“termination of the petitioner's last sentence”; “last sentence” means the “sentence, order of supervision, or order of qualified probation...that terminates last in time in any jurisdiction...”; “terminate” includes “satisfactory or unsatisfactory termination...”	3	20 Ill. Comp. Stat. 2630/5.2
Indiana	Misdemeanor	“date of conviction”	5	Ind. Code § 35-38-9-2(c)
	Felony	8 years after “date of conviction” for “non-violent” offenses (some also eligible 3 years after “completion of the person's sentence”); 10 years after conviction (or 5 years after “completion of the person's sentence”) for “violent” offenses; “sentence” likely includes any fines, fees, court costs, and restitution obligation “placed on the person as part of the sentence”	8 or 10	Ind. Code §§ 35-38-9-3, -4, -5
Iowa	Misdemeanor	“date of the conviction”	8	Iowa Code § 901C.3
	Felony	No general felony record clearing	N/A	N/A
Kansas	Misdemeanor	“(A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.”	3	Kan. Stat. Ann. § 21-6614

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Kansas	Felony	“(A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.”	5	Kan. Stat. Ann. § 21-6614
Kentucky	Misdemeanor	“completion of the person's sentence or...successful completion of the person's probation, whichever occurs later”	5	Ky. Rev. Stat. § 431.078
	Felony	“completion of the person's sentence or...successful completion of the person's probation, whichever occurs later”	5	Ky. Rev. Stat. § 431.073
Louisiana	Misdemeanor	“completed any sentence, deferred adjudication, or period of probation or parole”	5	La. Code Crim. Proc. Ann. art. 977
	Felony	“completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction”	10	La. Code Crim. Proc. Ann. art. 978
Maine	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Maryland	Misdemeanor	“the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision” (Shielding (a handful of minor misdemeanors): 3 years after completion of sentence)	10 or 15	Md. Code, Crim. Proc. §§ 10-110, 10-301
	Felony	“the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision”	15	Md. Code, Crim. Proc. § 10-110
Massachusetts	Misdemeanor	“the person's court appearance and court disposition records, including any period of incarceration or custody for any misdemeanor record to be sealed occurred”	3	Mass. Gen. Law ch. 276, § 100A
	Felony	the person's court appearance and court disposition records, including any period of incarceration or custody for any felony record to be sealed occurred”	7	Mass. Gen. Law ch. 276, § 100A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Michigan	Misdemeanor	<p><i>Petition-based relief:</i> Most misdemeanors: “3 or more years after whichever of the following events occurs last: (a) Imposition of the sentence for the conviction that the applicant seeks to set aside. (b) Completion of any term of imprisonment imposed for the conviction that the applicant seeks to set aside. (c) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside.” Serious or assaultive misdemeanors: “5 or more years after whichever of the following events occurs last: (a) Imposition of the sentence for the conviction or convictions that the applicant seeks to set aside. (b) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside. (c) Discharge from parole imposed for the conviction that the applicant seeks to set aside, if applicable. (d) Completion of any term of imprisonment imposed for the conviction or convictions that the applicant seeks to set aside.”</p> <p><i>Automatic relief:</i> “7 years have passed from the imposition of the sentence.”</p>	3, 5, or 7	Mich. Comp. Laws §§ 780.621d, 780.621g
	Felony	<p><i>Petition-based relief:</i> 5 or 7 years after “whichever of the following events occurs last: (a) Imposition of the sentence for the convictions that the applicant seeks to set aside. (b) Completion of any term of felony probation imposed for the convictions that the applicant seeks to set aside. (c) Discharge from parole imposed for the convictions that the applicant seeks to set aside. (d) Completion of any term of imprisonment imposed for the convictions that the applicant seeks to set aside.”</p> <p><i>Automatic relief:</i> “(a) Ten years have passed from whichever of the following events occurs last: (i) Imposition of the</p>	5, 7, or 10	Mich. Comp. Laws §§ 780.621d, 780.621g

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
		sentence for the conviction. (ii) Completion of any term of imprisonment with the department of corrections for the conviction."		
Minnesota	Misdemeanor	"discharge of the sentence"	2 or 4	Minn. Stat. § 609A.02, subd. 3
	Felony	"discharge of the sentence"	5	Minn. Stat. § 609A.02, subd. 3
Mississippi	Misdemeanor	No waiting period	0	Miss. Code Ann. § 99-19-71(1)
	Felony	"successful completion of all terms and conditions of the sentence"	5	Miss. Code Ann. § 99-19-71(2)
Missouri	Misdemeanor	"completed any authorized disposition imposed under section 557.011 [imprisonment, fine, suspended imposition or execution of sentence with or without probation, a period of detention as a condition of probation]"	1	Mo. Rev. Stat. § 610.140(5)(1)
	Felony	"completed any authorized disposition imposed under section 557.011 [imprisonment, fine, suspended imposition or execution of sentence with or without probation, a period of detention as a condition of probation]"	3	Mo. Rev. Stat. § 610.140(5)(1)
Montana	Misdemeanor	"completed the sentencing terms for the offense or offenses for which expungement is being requested, including payment of any financial obligations or successful completion of court-ordered treatment"	5	Mont. Code Ann. § 46-18-1107
	Felony	No general felony record clearing	N/A	N/A
Nebraska	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Nevada	Misdemeanor	“release from actual custody or discharge from probation, whichever occurs later” or “release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later,” depending on offense (a handful of misdemeanors are 7 years after “release from actual custody or...when the person is no longer under a suspended sentence, whichever occurs later”)	1 or 2	Nev. Rev. Stat. § 179.245
	Felony	2, 5, or 10 years from “release from actual custody or discharge from parole or probation, whichever occurs later” (a handful of felonies are 7 years after “release from actual custody or...when the person is no longer under a suspended sentence, whichever occurs later”)	2-10	Nev. Rev. Stat. § 179.245
New Hampshire	Misdemeanor	“completed all the terms and conditions of the sentence” (restitution and fines may be imposed as part of the sentence)	2 or 3	N.H. Rev. Stat. Ann. §§ 651:5, 651:63
	Felony	“completed all the terms and conditions of the sentence” (restitution and fines may be imposed as part of the sentence)	5 or 10	N.H. Rev. Stat. Ann. §§ 651:5, 651:63
New Jersey	Misdemeanor	<i>Petition-based:</i> 5 years “from the date of [the] most recent conviction, payment of fine, satisfactory completion of probation or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later.” The waiting period may be waived if “less than five years has expired from the satisfaction of a fine, but the five-year time requirement is otherwise satisfied, and the court finds that the person has substantially complied with [a fine payment plan], or could not do so due to compelling circumstances” The waiting period may be reduced to 3 years if no intervening convictions and “compelling circumstances.” <i>Automatic relief:</i> Eligibility for “clean slate” is 10 years from “the person's most recent conviction,	3, 5, or 10	N.J. Stat. Ann. § 2C:52-1, et seq.

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
New Jersey		payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.” Notwithstanding the 10-year requirement, if financial obligations are “not yet satisfied due to reasons other than willful noncompliance,” the court shall convert them to a civil judgment and grant the expungement.		
	Felony	5 years after “date of his most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.” The waiting period may be waived if “less than five years has expired from the satisfaction of a fine, but the five-year time requirement is otherwise satisfied, and the court finds that the person has substantially complied with [a fine payment plan], or could not do so due to compelling circumstances” The waiting period may be reduced to 4 years if no intervening convictions and “compelling circumstances.” Eligibility for “clean slate” is 10 years from “the person’s most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.” Notwithstanding the 10-year requirement, if financial obligations are “not yet satisfied due to reasons other than willful noncompliance,” the court shall convert them to a civil judgment and grant the expungement.	4, 5, or 10	N.J. Stat. Ann. § 2C:52-1, et seq.
New Mexico	Misdemeanor	Since any “other criminal conviction”	2	N.M. Stat. § 29-3A-5.
	Felony	Since any “other criminal conviction”	4-10	N.M. Stat. § 29-3A-5.

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
New York	Misdemeanor	"imposition of the sentence on the defendant's latest conviction or...the defendant's latest release from incarceration"	10	N.Y. Crim. Proc. Law § 160.59
	Felony	"imposition of the sentence on the defendant's latest conviction or...the defendant's latest release from incarceration"	10	N.Y. Crim. Proc. Law § 160.59
North Carolina	Misdemeanor	"a. For expunction of one nonviolent misdemeanor, five years after the date of the conviction or when any active sentence, period of probation, or post-release supervision has been served, whichever occurs later. b. For expunction of more than one nonviolent misdemeanor, seven years after the date of the person's last conviction, other than a traffic offense not listed in the petition for expunction, or seven years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later."	5 or 7	N.C. Gen. Stat. § 15A-145.5(c)
	Felony	"a. For expunction of one nonviolent felony, 10 years after the date of the conviction or 10 years after any active sentence, period of probation, or post-release supervision, related to the conviction listed in the petition, has been served, whichever occurs later. b. For expunction of two or three nonviolent felonies, 20 years after the date of the most recent conviction listed in the petition, or 20 years after any active sentence, period of probation, or post-release supervision, related to a conviction listed in the petition, has been served, whichever occurs later."	10 or 20	N.C. Gen. Stat. § 15A-145.5(c)
North Dakota	Misdemeanor	"The individual pled guilty to or was found guilty of a misdemeanor offense and the individual has not been convicted of a new crime for at least three years before filing the petition"	3	N.D. Cent. Code § 12-60.1-02

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
North Dakota	Felony	“The individual pled guilty to or was found guilty of a felony offense and the individual has not been convicted of a new crime for at least five years before filing the petition.[] This chapter does not apply to: a. A felony offense involving violence or intimidation during the period in which the offender is ineligible to possess a firearm under subdivision a of subsection 1 of section 62.1-02-01 [“ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.”]”	5 or 10	N.D. Cent. Code § 12-60.1-02
Ohio	Misdemeanor	“final discharge”	1	Ohio Rev. Code Ann. § 2953.2
	Felony	“final discharge” (bribery waiting period is 7 years)	1 or 3	Ohio Rev. Code Ann. § 2953.2
Oklahoma	Misdemeanor	For misdemeanors sentenced to a fine only of \$501 or less, there is no waiting period; for other misdemeanors, it runs 5 years "since the end of the last misdemeanor sentence"	0 or 5	Okla. Stat. tit. 22, § 18
	Felony	“completion of the sentence” (Not clear what “completion of the sentence” means, but because there is an independent requirement for the payment of restitution, see Okla. Stat. tit. 22, § 18(a)(15), it likely only includes completion of custody and supervision.)	5 or 10	Okla. Stat. tit. 22, § 18
Oregon	Misdemeanor	“date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later”	1 or 3	Or. Rev. Stat. § 137.225(1)(b)
	Felony	“date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later”	5 or 7	Or. Rev. Stat. § 137.225(1)(b)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Pennsylvania	Misdemeanor	<i>Petition-based relief:</i> “free from conviction for a period of 10 years for an offense punishable by one or more years in prison...”; <i>Automatic relief:</i> “free for 10 years from conviction for any offense punishable by imprisonment of one or more years...”	10	18 Pa. Cons. Stat. §§ 9122.1, 9122.2
	Felony	No general felony record clearing	N/A	N/A
Rhode Island	Misdemeanor	“completion of his or her sentence” (See <i>State v. Alejo</i> , 723 A.2d 762 (R.I. 1999) (“...first must serve out the full term of his or her sentence, regardless of whether the sentence was for imprisonment, suspension of imprisonment or probation, or any combination thereof. Once having completed the total length and probationary terms of the sentence imposed, the defendant, in the case of a misdemeanor conviction, then must wait an additional period of five years before first being eligible to file his or her motion to expunge the particular record of conviction.”))	5	R.I. Gen. Laws § 12-1.3-2
	Felony	“completion of his or her sentence” (See <i>State v. Alejo</i> , 723 A.2d 762 (R.I. 1999))	10	R.I. Gen. Laws § 12-1.3-2
South Carolina	Misdemeanor	“date of the conviction”	3 or 5	S.C. Code Ann. § 22-5-910
	Felony	No general felony record clearing	N/A	N/A
South Dakota	Misdemeanor	<i>Automatic relief:</i> “Any charge or conviction resulting from a case where a petty offense, municipal ordinance violation, or a Class 2 misdemeanor was the highest charged offense shall be automatically removed from a defendant’s public record after five years” (statute does not explicitly set a starting point, but reasonable to conclude it runs from “conviction”)	5	S.D. Codified Laws § 23A-3-34
	Felony	No general felony record clearing	N/A	N/A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Tennessee	Misdemeanor	“completion of the sentence imposed” or “completion of the sentence imposed for the most recent offense” (Davidson County, TN Expungement form https://ccc.nashville.gov/wp-content/uploads/2021/08/40-32-101k-Expungement-Packet-Criminal.pdf (“If the sentence included probation or parole, the sentence was completed at the end of the probation or parole”; also note that requirement to have “fulfilled all the requirements of the sentences” is listed separately from completion for the purposes of the waiting period)	5	Tenn. Code § 40-32-101
	Felony	“completion of the sentence imposed” or “completion of the sentence imposed for the most recent offense”	5 or 10	Tenn. Code § 40-32-101
Texas	Misdemeanor	“completion of the community supervision” or “completion of the person's sentence” (both used in statute to include “any term of confinement imposed and payment of all fines, costs, and restitution imposed”)	0 or 2	Tex. Gov’t Code §§ 411.073, 411.0735
	Felony	No general felony record clearing	N/A	N/A
Utah	Misdemeanor	<i>Petition-based relief:</i> 3 or 5 years from the “date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge” (10 years for certain DUI offenses). <i>Automatic relief:</i> 5, 6, or 7 years “from the day on which the case is adjudicated”	3, 5, 6, or 7	Utah Code Ann. §§ 77-40-105(4)(c)
	Felony	“date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for	7	Utah Code Ann. §§ 77-40-105(4)(c)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
		each conviction the petitioner seeks to expunge" (10 years for certain DUI offenses)		
Vermont	Misdemeanor	"date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously."	5	Vt. Stat. Ann. tit. 13, § 7602(b)(1)(a)
	Felony	"date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously."	5	Vt. Stat. Ann. tit. 13, § 7602(b)(1)(a)
Virginia	Misdemeanor	<i>Petition-based relief:</i> "conviction, or...release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later"; <i>Automatic relief:</i> "date of the conviction"	7	Va. Code Ann. §§ 19.2-392.12(f)(1), 19.2-392.6(c)
	Felony	"conviction, or...release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later"	10	Va. Code Ann. § 19.2-392.12(f)(1)
Washington	Misdemeanor	"completed the terms of the sentence, including any financial obligations"	3	Wash. Rev. Code § 9.96.060
	Felony	"later of: (i) The applicant's release from community custody; (ii) the applicant's release from full and partial confinement; or (iii) the applicant's sentencing date;"	5 or 10	Wash. Rev. Code § 9.94A.640
West Virginia	Misdemeanor	For one misdemeanor: "conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time." For multiple misdemeanors: "the last conviction, completion of any sentence of incarceration, or completion of any period of supervision ordered for the last conviction, whichever is later in time."	1 or 2	W. Va. Code § 61-11-26(b)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
West Virginia	Felony	“after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time”	5	W. Va. Code § 61-11-26(b)
Wisconsin	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Wyoming	Misdemeanor	“the expiration of the terms of sentence imposed by the court, including any periods of probation or the completion of any program ordered by the court”	5	Wyo. Stat. Ann. § 7-13-1501
	Felony	“(A) The expiration of the terms of sentence imposed by the court, including any periods of probation; (B) The completion of any program ordered by the court; and (C) Any restitution ordered by the court has been paid in full.”	10	Wyo. Stat. Ann. § 7-13-1502

CCRC_Waiting-for-Relief Report.pdf

Uploaded by: Christopher Sweeney

Position: FAV

Waiting for Relief:

A National Survey of Waiting Periods for Record Clearing

By Margaret Love & David Schlussel

February 2022

COLLATERAL CONSEQUENCES RESOURCE CENTER

The Collateral Consequences Resource Center (CCRC) is a non-profit organization established in 2014 to promote public engagement on the myriad issues raised by the collateral consequences of arrest or conviction. Collateral consequences are the legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed. The Center provides news and commentary about this dynamic area of the law, and a variety of research and practice materials aimed at legal and policy advocates, courts, scholars, lawmakers, and those most directly affected by criminal justice involvement.

Through our flagship resource, the [Restoration of Rights Project](#) (RRP), we describe and analyze the various laws and practices relating to restoration of rights and criminal record relief in each U.S. jurisdiction. In addition to these state-by-state profiles, a series of 50-state comparison charts and periodic reports on new enactments make it possible to see national patterns and emerging trends in formal efforts to mitigate the adverse impact of a criminal record. We develop and advocate for policy reforms, provide technical support to those working to expand restoration mechanisms, participate in court cases challenging specific collateral consequences, and engage with social media and journalists on these issues. For more information, visit the CCRC website at <http://ccresourcecenter.org>.

Preparation of this report was made possible by a generous grant from Arnold Ventures.

Citation: Margaret Love & David Schlussel, *Waiting for Relief: A National Survey of Waiting Periods for Record Clearing*, Collateral Consequences Res. Ctr. (Feb. 2022)

Waiting for Relief:

A National Survey of Waiting Periods for Record Clearing

By Margaret Love & David Schlusser

Table of Contents

Introduction and Overview	1
50-State Table #1: Misdemeanor Convictions	4
50-State Table #2: Felony Convictions	5
50-State Maps	6
Appendix	7

Introduction and Overview

- **Background:** This report is the first-ever comprehensive national survey of the period of time a person, who is otherwise eligible to expunge or seal a misdemeanor or felony conviction record, must wait before obtaining this relief. Waiting periods are usually established by statute and can range from 0 to 20 years, a period that typically (though by no means invariably) commences after completion of the court-imposed sentence. Also typically, during a waiting period the person must be free from certain forms of involvement with the justice system: from a felony conviction, from any conviction, or from any arrest, again depending on state law. These and other conditions and circumstances may extend (or occasionally shorten) the length of a waiting period in specific cases.
- **Contents of the Report:** Following this introduction, the report consists of two 50-state Tables, one showing the waiting periods applicable to clearing of misdemeanors, and the other showing the waiting periods applicable to clearing of felonies, with states that have no general record clearing listed at the bottom of each table. The Tables are followed by maps showing the geographical distribution of waiting periods for each type of conviction. The maps are followed by an appendix describing in greater detail the laws governing waiting periods in each of the jurisdictions studied.
- **Summary of 50-state research results:**
 - The waiting periods for misdemeanor convictions range from a high of 10 or 15 years in Maryland (depending on the nature of the offense) to 0 years in Mississippi (although only first-time offenses are eligible), with most states falling at the lower end of that range. Of the 44 states that authorize clearing of misdemeanor convictions, a near-majority have waiting periods of 3 years or less (19 states) and the vast majority have waiting periods of 5 years or less (35 states).
 - The waiting periods for felony convictions range from as high as 10 or 20 years in North Carolina to as low as 0-2 years in California, with most states falling at the lower end of that range. Of the 35 states that authorize clearing of felony convictions, a near-majority have waiting periods of 7 years or less (17 states).
- **Comment on methodology:** This report deals only with waiting periods, and only with those applicable to general record clearing of felony and misdemeanor

convictions. Different waiting periods may apply to specialized record-clearing programs such as those that apply to victims of human trafficking, decriminalized offenses (e.g., marijuana), and so-called youthful offender programs. It also does not take account of other eligibility requirements that typically apply that could extend the waiting period, including completion of supervision and/or payment of court debt, or potential extensions related to prior, subsequent, and pending criminal matters. It does not consider provisions allowing the DA to consent to shorten waiting periods.

The Tables are based only on the length of the waiting period specified in statute. Insofar as practicable, the charts account for differences in when the waiting period commences (e.g., upon conviction, upon release from incarceration, upon completion of supervision, upon completion of sentence including payment of court debt). Further information about states in the far righthand column of the Tables may be found in the state-specific write-ups in the Appendix or in the state-specific profiles from CCRC's [Restoration of Rights Project](#).

- **Considerations for assessing the efficacy of waiting periods:** In assessing how waiting periods affect the efficacy of a particular state's record clearing system, it is important to consider whether some states with shorter waiting periods authorize clearance of a narrower set of convictions, and, conversely, whether some states with longer periods may authorize clearing of a broader set of convictions. In many if not most cases, other variables (including but not limited to those mentioned in the foregoing paragraph) will have to be brought into play to provide a fair assessment.
- **The changing concept (and length) of waiting periods:** Many waiting periods, notably longer ones, reflect a concept of record clearing via expungement or sealing as "recognition of successful rehabilitation and reason to terminate legal disqualifications and disabilities."¹ In recent years, however, many states have shortened waiting periods in recognition of the constructive role that record clearance plays in facilitating reentry and rehabilitation, reasoning that individuals "need the most assistance immediately after release from prison or termination of sentence."²

¹ James Jacobs, *THE ETERNAL CRIMINAL RECORD* 131 (Harvard Univ. Press 2015).

² *Id.* See also Brian M. Murray, *Retributive Expungement*, 169 U. Pa. L. Rev. 665, 695 (2021); J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 Harvard L. Rev. 2460, 2479 (2020); Jeffrey Selbin et al., *Unmarked? Criminal Record Clearing and Employment Outcomes*, 108 J. Crim. L. Criminology 1, 52 (2018).

Since 2016, thirteen (13) states have reduced their waiting periods, four (4) states more than once. The seven (7) states that have enacted a general conviction sealing authority for the first time since 2018 have generally (though not invariably) provided shorter waiting periods than states with more venerable systems.³ States that have reduced their waiting periods in recent years, or enacted new record clearing laws for the first time, tend to be geographically and politically diverse. The Tables show that the states with the longest waiting periods in the country are on the East Coast, with all but one in the Mid-Atlantic region.

- **Waiting periods and public safety:** Data on recidivism dating from the 1990s reinforced policy arguments that waiting periods should be long enough to reduce the risk of reoffending after record clearance. But new research on recidivism suggests that shorter waiting periods need not raise public safety concerns. Researchers at the RAND Corporation have raised questions about decades of received truth about the prevalence of reoffending after people leave prison, proposing that the majority of individuals with a conviction do not have a subsequent conviction, and that a person's likelihood of being convicted again declines rapidly as more time passes.⁴ This new research would seem to cast doubt on the legitimacy of concerns that shortening waiting periods necessarily raises public safety concerns. Indeed, to the contrary, it suggests that it may be possible to reconcile the seemingly inconsistent policy goals of facilitating and recognizing rehabilitation through shorter waiting periods.

³ States that have reduced their eligibility waiting periods since 2016 are Arkansas, Massachusetts, Michigan, Missouri (twice), Nevada, New Jersey (twice), North Carolina, Ohio, Oklahoma (twice), Oregon, South Dakota, Vermont (twice), Washington. States that have enacted a general conviction sealing authority for the first time since 2018 are Alabama, Arizona, Connecticut, New Mexico, North Dakota, Virginia, West Virginia. Additional information about waiting periods in these states can be found in the [Restoration of Rights Project](#).

⁴ Shawn Bushway et al., *Providing Another Chance: Resetting Recidivism Risk in Criminal Background Checks*, RAND Corp. (2022), <https://doi.org/10.7249/RR1360-1>.

50-State Table #1: Misdemeanor Convictions
Waiting Periods for Record Clearing (Expungement or Sealing)

	No waiting period	From conviction	From completion of incarceration	From completion of incarceration and supervision	From another starting point*
<3	MS: 0 yrs.			WV: 1 or 2 yrs.	CA: 0 or 1 yrs.
<3					OH, MO: 1 yr.
<3					TX: 0 or 2 yrs.
<3					NV: 1 or 2 yrs.
<3					NM: 2 yrs.
<5		AL, ND: 3 yrs.	OR: 1 or 3 yrs.	CO, KS: 3 yrs.	AZ, NH: 2 or 3 yrs.
<5			MA: 3 yrs.		IL, WA: 3 yrs.
<5				MN: 2 or 4 yrs.	GA: 4 yrs.
<6		SC: 3 or 5 yrs.		OK: 0 or 5 yrs.	AR: 0 or 5 yrs.
<6				UT: 3 or 5 yrs. [†]	MI, NJ: 3 or 5 yrs. [†]
<6		IN, SD: 5 yrs.		KY, LA, RI, TN, VT, WY: 5 yrs.	MT: 5 yrs.
<8			VA: 7 yrs.		DE: 3-7 yrs. [†]
<8				NC: 5 or 7 yrs.	CT: 7 yrs.
<10		IA: 8 yrs.		DC: 8 yrs.	
10+		PA: 10 yrs.	NY: 10 yrs.	MD: 10 or 15 yrs.	
AK, Federal, FL, HI, ID, ME, NE, WI: No general record clearing for misdemeanor convictions					

* See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start, A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

[†] These states' automatic record clearing laws have different waiting periods (than those reflected in the chart): 5 years in Delaware; 7 years in Michigan; 10 years in New Jersey; and 5, 6, or 7 years in Utah. See the Appendix for more information.

50-State Table #2: Felony Convictions

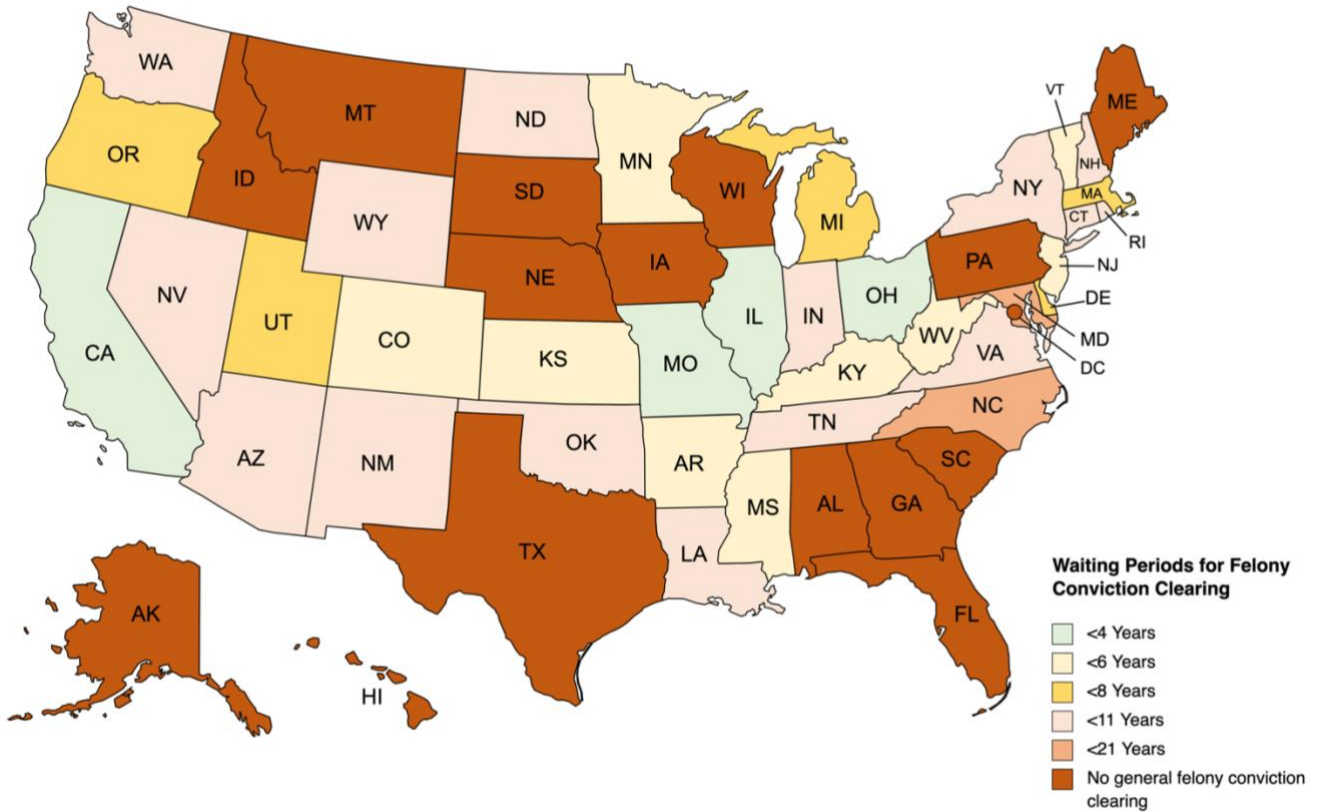
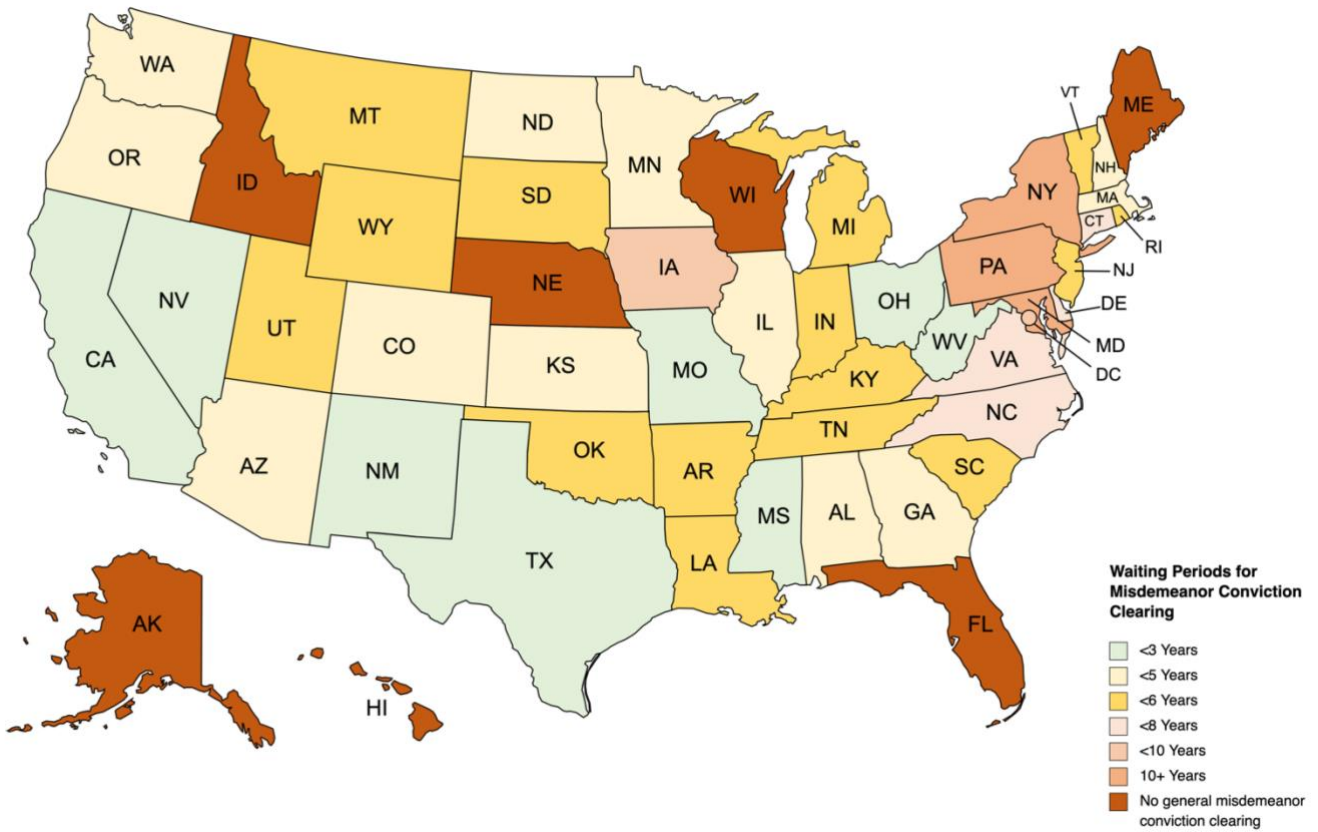
Waiting Periods for Record Clearing (e.g., Expungement or Sealing)

	From conviction	From completion of incarceration	From completion of incarceration & supervision	From another starting point [‡]
<4				CA: 0-2 yrs.
<4				OH: 1 or 3 yrs.
<4				IL, MO: 3 yrs.
<6				AR: 0 or 5 yrs.
<6			CO: 3 or 5 yrs.	NJ: 4 or 5 yrs. [§]
<6			KS, KY, MN, VT, WV: 5 yrs.	MS: 5 yrs.
<8		OR: 5 or 7 yrs.	UT: 7 yrs.	MI: 5 or 7 yrs. [§]
<8		MA: 7 yrs.		DE: 7 yrs. [§]
<11	ND: 5 or 10 yrs.	NY, VA: 10 yrs.	OK, TN, WA: 5 or 10 yrs.	NV: 2-10 yrs.
<11	IN: 8 or 10 yrs.		LA, RI: 10 yrs.	NM: 4-10 yrs.
<11				AZ, NH: 5 or 10 yrs.
<11				CT, WY: 10 yrs.
<21			NC: 10 or 20 yrs.	
<21			MD: 15 yrs.	
AL, AK, DC, Federal, FL, GA, HI, ID, IA, ME, MT, NE, PA, SC, SD, TX, WI: No general record clearing for felony convictions				

[‡] See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start, A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

[§] These states' automatic record clearing laws have different waiting periods (than those reflected in the chart): 10 years in Delaware; 10 years in Michigan; and 10 years in New Jersey. See the Appendix for more information.

50-State Maps



Appendix

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Alabama	Misdemeanor	“date of conviction”	3	Ala. Code § 15-27-1(b)(2)
	Felony	No general felony record clearing	N/A	N/A
Alaska	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Arizona	Misdemeanor	“completed the conditions of probation or sentence and was discharged by the court”	2 or 3	Ariz. Rev. Stat. § 13-911(e)
	Felony	“completed the conditions of probation or sentence and was discharged by the court”	5 or 10	Ariz. Rev. Stat. § 13-911(e)
Arkansas	Misdemeanor	“Completion of the person’s sentence,” defined to include custody time, monetary obligations, community service, discharge from probation or parole, suspended sentence, training programs that were conditions of supervision, and driving reinstatement requirements and fees	0 or 5	Ark. Code Ann. §§ 16-90-1404(1), -1405
	Felony	“Completion of the person’s sentence,” defined to include custody time, monetary obligations, community service, discharge from probation or parole, suspended sentence, training programs that were conditions of supervision, and driving reinstatement requirements and fees	0 or 5	Ark. Code Ann. §§ 16-90-1404(1), -1406
California	Misdemeanor	<i>Discretionary relief:</i> 0 or 1 years after “pronouncement of judgment”; <i>Mandatory relief:</i> upon early termination of probation or completion of its conditions; <i>Automatic relief:</i> completion of probation without revocation or “completed their sentence” and 1-year elapsed after judgment	0 or 1	Cal. Penal Code §§ 1203.4, 1203.4a, 1203.425
	Felony	<i>Petition-based relief:</i> 1 or 2 years after “completion of the sentence”; <i>Automatic relief:</i> completion of probation without revocation	0, 1, or 2	Cal. Penal Code §§ 1203.4, 1203.41, 1203.42,

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
				1203.4a, 1203.425
Colorado	Misdemeanor	“the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction”	3	Colo. Rev. Stat. § 24-72-706(1)(b)
	Felony	“the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction”	3 or 5	Colo. Rev. Stat. § 24-72-706(1)(b)
Connecticut	Misdemeanor	<i>Automatic erasure:</i> “the date on which the court entered the convicted person's most recent judgment of conviction”	7	Conn. Gen. Stat. § 54-142a(e)
	Felony	<i>Automatic erasure:</i> “the date on which the court entered the convicted person's most recent judgment of conviction”	10	Conn. Gen. Stat. § 54-142a(e)
Delaware	Misdemeanor	<i>Discretionary relief:</i> 3 or 7 years from “date of conviction or the date of release from incarceration, whichever is later”; <i>Mandatory & automatic relief:</i> 5 years after “date of conviction”	3, 5, or 7	Del. Code Ann. tit. 11, §§ 4373, 4374A, 4374
	Felony	<i>Discretionary relief:</i> 7 years after “date of conviction or the date of release from incarceration, whichever is later”; <i>Mandatory & automatic relief:</i> 10 years after “date of conviction or the date of release from incarceration, whichever is later”	7 or 10	Del. Code Ann. tit. 11, §§ 4373, 4374A, 4374
District of Columbia	Misdemeanor	“completion of the movant's sentence,” defined to mean “unconditionally discharged from incarceration, commitment, probation, parole, or supervised release, whichever is latest.”	8	D.C. Code § 16-801, -803
	Felony	No general felony record clearing	N/A	N/A
Florida	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Georgia	Misdemeanor	Since “convicted of any crime in any jurisdiction...excluding any conviction for a nonserious traffic offense”	4	Ga. Code Ann. § 35-3-37(j)(4)(a)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Georgia	Felony	No general felony record clearing	N/A	N/A
Hawaii	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Idaho	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Illinois	Misdemeanor	“termination of the petitioner's last sentence”; “last sentence” means the “sentence, order of supervision, or order of qualified probation...that terminates last in time in any jurisdiction...”; “terminate” includes “satisfactory or unsatisfactory termination...”	3	20 Ill. Comp. Stat. 2630/5.2
	Felony	“termination of the petitioner's last sentence”; “last sentence” means the “sentence, order of supervision, or order of qualified probation...that terminates last in time in any jurisdiction...”; “terminate” includes “satisfactory or unsatisfactory termination...”	3	20 Ill. Comp. Stat. 2630/5.2
Indiana	Misdemeanor	“date of conviction”	5	Ind. Code § 35-38-9-2(c)
	Felony	8 years after “date of conviction” for “non-violent” offenses (some also eligible 3 years after “completion of the person's sentence”); 10 years after conviction (or 5 years after “completion of the person's sentence”) for “violent” offenses; “sentence” likely includes any fines, fees, court costs, and restitution obligation “placed on the person as part of the sentence”	8 or 10	Ind. Code §§ 35-38-9-3, -4, -5
Iowa	Misdemeanor	“date of the conviction”	8	Iowa Code § 901C.3
	Felony	No general felony record clearing	N/A	N/A
Kansas	Misdemeanor	“(A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.”	3	Kan. Stat. Ann. § 21-6614

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Kansas	Felony	“(A) Satisfied the sentence imposed; or (B) was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence.”	5	Kan. Stat. Ann. § 21-6614
Kentucky	Misdemeanor	“completion of the person's sentence or...successful completion of the person's probation, whichever occurs later”	5	Ky. Rev. Stat. § 431.078
	Felony	“completion of the person's sentence or...successful completion of the person's probation, whichever occurs later”	5	Ky. Rev. Stat. § 431.073
Louisiana	Misdemeanor	“completed any sentence, deferred adjudication, or period of probation or parole”	5	La. Code Crim. Proc. Ann. art. 977
	Felony	“completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction”	10	La. Code Crim. Proc. Ann. art. 978
Maine	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Maryland	Misdemeanor	“the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision” (Shielding (a handful of minor misdemeanors): 3 years after completion of sentence)	10 or 15	Md. Code, Crim. Proc. §§ 10-110, 10-301
	Felony	“the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision”	15	Md. Code, Crim. Proc. § 10-110
Massachusetts	Misdemeanor	“the person's court appearance and court disposition records, including any period of incarceration or custody for any misdemeanor record to be sealed occurred”	3	Mass. Gen. Law ch. 276, § 100A
	Felony	the person's court appearance and court disposition records, including any period of incarceration or custody for any felony record to be sealed occurred”	7	Mass. Gen. Law ch. 276, § 100A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Michigan	Misdemeanor	<p><i>Petition-based relief:</i> Most misdemeanors: “3 or more years after whichever of the following events occurs last: (a) Imposition of the sentence for the conviction that the applicant seeks to set aside. (b) Completion of any term of imprisonment imposed for the conviction that the applicant seeks to set aside. (c) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside.” Serious or assaultive misdemeanors: “5 or more years after whichever of the following events occurs last: (a) Imposition of the sentence for the conviction or convictions that the applicant seeks to set aside. (b) Completion of probation imposed for the conviction or convictions that the applicant seeks to set aside. (c) Discharge from parole imposed for the conviction that the applicant seeks to set aside, if applicable. (d) Completion of any term of imprisonment imposed for the conviction or convictions that the applicant seeks to set aside.”</p> <p><i>Automatic relief:</i> “7 years have passed from the imposition of the sentence.”</p>	3, 5, or 7	Mich. Comp. Laws §§ 780.621d, 780.621g
	Felony	<p><i>Petition-based relief:</i> 5 or 7 years after “whichever of the following events occurs last: (a) Imposition of the sentence for the convictions that the applicant seeks to set aside. (b) Completion of any term of felony probation imposed for the convictions that the applicant seeks to set aside. (c) Discharge from parole imposed for the convictions that the applicant seeks to set aside. (d) Completion of any term of imprisonment imposed for the convictions that the applicant seeks to set aside.”</p> <p><i>Automatic relief:</i> “(a) Ten years have passed from whichever of the following events occurs last: (i) Imposition of the</p>	5, 7, or 10	Mich. Comp. Laws §§ 780.621d, 780.621g

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
		sentence for the conviction. (ii) Completion of any term of imprisonment with the department of corrections for the conviction.”		
Minnesota	Misdemeanor	“discharge of the sentence”	2 or 4	Minn. Stat. § 609A.02, subd. 3
	Felony	“discharge of the sentence”	5	Minn. Stat. § 609A.02, subd. 3
Mississippi	Misdemeanor	No waiting period	0	Miss. Code Ann. § 99-19-71(1)
	Felony	“successful completion of all terms and conditions of the sentence”	5	Miss. Code Ann. § 99-19-71(2)
Missouri	Misdemeanor	“completed any authorized disposition imposed under section 557.011 [imprisonment, fine, suspended imposition or execution of sentence with or without probation, a period of detention as a condition of probation]”	1	Mo. Rev. Stat. § 610.140(5)(1)
	Felony	“completed any authorized disposition imposed under section 557.011 [imprisonment, fine, suspended imposition or execution of sentence with or without probation, a period of detention as a condition of probation]”	3	Mo. Rev. Stat. § 610.140(5)(1)
Montana	Misdemeanor	“completed the sentencing terms for the offense or offenses for which expungement is being requested, including payment of any financial obligations or successful completion of court-ordered treatment”	5	Mont. Code Ann. § 46-18-1107
	Felony	No general felony record clearing	N/A	N/A
Nebraska	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Nevada	Misdemeanor	“release from actual custody or discharge from probation, whichever occurs later” or “release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later,” depending on offense (a handful of misdemeanors are 7 years after “release from actual custody or...when the person is no longer under a suspended sentence, whichever occurs later”)	1 or 2	Nev. Rev. Stat. § 179.245
	Felony	2, 5, or 10 years from “release from actual custody or discharge from parole or probation, whichever occurs later” (a handful of felonies are 7 years after “release from actual custody or...when the person is no longer under a suspended sentence, whichever occurs later”)	2-10	Nev. Rev. Stat. § 179.245
New Hampshire	Misdemeanor	“completed all the terms and conditions of the sentence” (restitution and fines may be imposed as part of the sentence)	2 or 3	N.H. Rev. Stat. Ann. §§ 651:5, 651:63
	Felony	“completed all the terms and conditions of the sentence” (restitution and fines may be imposed as part of the sentence)	5 or 10	N.H. Rev. Stat. Ann. §§ 651:5, 651:63
New Jersey	Misdemeanor	<i>Petition-based:</i> 5 years “from the date of [the] most recent conviction, payment of fine, satisfactory completion of probation or release from incarceration for any disorderly persons or petty disorderly persons offense, whichever is later.” The waiting period may be waived if “less than five years has expired from the satisfaction of a fine, but the five-year time requirement is otherwise satisfied, and the court finds that the person has substantially complied with [a fine payment plan], or could not do so due to compelling circumstances” The waiting period may be reduced to 3 years if no intervening convictions and “compelling circumstances.” <i>Automatic relief:</i> Eligibility for “clean slate” is 10 years from “the person's most recent conviction,	3, 5, or 10	N.J. Stat. Ann. § 2C:52-1, et seq.

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
New Jersey		<p>payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.”</p> <p>Notwithstanding the 10-year requirement, if financial obligations are “not yet satisfied due to reasons other than willful noncompliance,” the court shall convert them to a civil judgment and grant the expungement.</p>		
	Felony	<p>5 years after “date of his most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.” The waiting period may be waived if “less than five years has expired from the satisfaction of a fine, but the five-year time requirement is otherwise satisfied, and the court finds that the person has substantially complied with [a fine payment plan], or could not do so due to compelling circumstances” The waiting period may be reduced to 4 years if no intervening convictions and “compelling circumstances.” Eligibility for “clean slate” is 10 years from “the person’s most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.” Notwithstanding the 10-year requirement, if financial obligations are “not yet satisfied due to reasons other than willful noncompliance,” the court shall convert them to a civil judgment and grant the expungement.</p>	4, 5, or 10	N.J. Stat. Ann. § 2C:52-1, et seq.
New Mexico	Misdemeanor	Since any “other criminal conviction”	2	N.M. Stat. § 29-3A-5.
	Felony	Since any “other criminal conviction”	4-10	N.M. Stat. § 29-3A-5.

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
New York	Misdemeanor	"imposition of the sentence on the defendant's latest conviction or...the defendant's latest release from incarceration"	10	N.Y. Crim. Proc. Law § 160.59
	Felony	"imposition of the sentence on the defendant's latest conviction or...the defendant's latest release from incarceration"	10	N.Y. Crim. Proc. Law § 160.59
North Carolina	Misdemeanor	"a. For expunction of one nonviolent misdemeanor, five years after the date of the conviction or when any active sentence, period of probation, or post-release supervision has been served, whichever occurs later. b. For expunction of more than one nonviolent misdemeanor, seven years after the date of the person's last conviction, other than a traffic offense not listed in the petition for expunction, or seven years after any active sentence, period of probation, or post-release supervision has been served, whichever occurs later."	5 or 7	N.C. Gen. Stat. § 15A-145.5(c)
	Felony	"a. For expunction of one nonviolent felony, 10 years after the date of the conviction or 10 years after any active sentence, period of probation, or post-release supervision, related to the conviction listed in the petition, has been served, whichever occurs later. b. For expunction of two or three nonviolent felonies, 20 years after the date of the most recent conviction listed in the petition, or 20 years after any active sentence, period of probation, or post-release supervision, related to a conviction listed in the petition, has been served, whichever occurs later."	10 or 20	N.C. Gen. Stat. § 15A-145.5(c)
North Dakota	Misdemeanor	"The individual pled guilty to or was found guilty of a misdemeanor offense and the individual has not been convicted of a new crime for at least three years before filing the petition"	3	N.D. Cent. Code § 12-60.1-02

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
North Dakota	Felony	“The individual pled guilty to or was found guilty of a felony offense and the individual has not been convicted of a new crime for at least five years before filing the petition.[] This chapter does not apply to: a. A felony offense involving violence or intimidation during the period in which the offender is ineligible to possess a firearm under subdivision a of subsection 1 of section 62.1-02-01 [“ten years after the date of conviction or the date of release from incarceration, parole, or probation, whichever is latest.”]”	5 or 10	N.D. Cent. Code § 12-60.1-02
Ohio	Misdemeanor	“final discharge”	1	Ohio Rev. Code Ann. § 2953.2
	Felony	“final discharge” (bribery waiting period is 7 years)	1 or 3	Ohio Rev. Code Ann. § 2953.2
Oklahoma	Misdemeanor	For misdemeanors sentenced to a fine only of \$501 or less, there is no waiting period; for other misdemeanors, it runs 5 years "since the end of the last misdemeanor sentence"	0 or 5	Okla. Stat. tit. 22, § 18
	Felony	“completion of the sentence” (Not clear what “completion of the sentence” means, but because there is an independent requirement for the payment of restitution, see Okla. Stat. tit. 22, § 18(a)(15), it likely only includes completion of custody and supervision.)	5 or 10	Okla. Stat. tit. 22, § 18
Oregon	Misdemeanor	“date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later”	1 or 3	Or. Rev. Stat. § 137.225(1)(b)
	Felony	“date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later”	5 or 7	Or. Rev. Stat. § 137.225(1)(b)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Pennsylvania	Misdemeanor	<i>Petition-based relief:</i> “free from conviction for a period of 10 years for an offense punishable by one or more years in prison...”; <i>Automatic relief:</i> “free for 10 years from conviction for any offense punishable by imprisonment of one or more years...”	10	18 Pa. Cons. Stat. §§ 9122.1, 9122.2
	Felony	No general felony record clearing	N/A	N/A
Rhode Island	Misdemeanor	“completion of his or her sentence” (See <i>State v. Alejo</i> , 723 A.2d 762 (R.I. 1999) (“...first must serve out the full term of his or her sentence, regardless of whether the sentence was for imprisonment, suspension of imprisonment or probation, or any combination thereof. Once having completed the total length and probationary terms of the sentence imposed, the defendant, in the case of a misdemeanor conviction, then must wait an additional period of five years before first being eligible to file his or her motion to expunge the particular record of conviction.”))	5	R.I. Gen. Laws § 12-1.3-2
	Felony	“completion of his or her sentence” (See <i>State v. Alejo</i> , 723 A.2d 762 (R.I. 1999))	10	R.I. Gen. Laws § 12-1.3-2
South Carolina	Misdemeanor	“date of the conviction”	3 or 5	S.C. Code Ann. § 22-5-910
	Felony	No general felony record clearing	N/A	N/A
South Dakota	Misdemeanor	<i>Automatic relief:</i> “Any charge or conviction resulting from a case where a petty offense, municipal ordinance violation, or a Class 2 misdemeanor was the highest charged offense shall be automatically removed from a defendant’s public record after five years” (statute does not explicitly set a starting point, but reasonable to conclude it runs from “conviction”)	5	S.D. Codified Laws § 23A-3-34
	Felony	No general felony record clearing	N/A	N/A

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
Tennessee	Misdemeanor	“completion of the sentence imposed” or “completion of the sentence imposed for the most recent offense” (Davidson County, TN Expungement form https://ccc.nashville.gov/wp-content/uploads/2021/08/40-32-101k-Expungement-Packet-Criminal.pdf (“If the sentence included probation or parole, the sentence was completed at the end of the probation or parole”; also note that requirement to have “fulfilled all the requirements of the sentences” is listed separately from completion for the purposes of the waiting period)	5	Tenn. Code § 40-32-101
	Felony	“completion of the sentence imposed” or “completion of the sentence imposed for the most recent offense”	5 or 10	Tenn. Code § 40-32-101
Texas	Misdemeanor	“completion of the community supervision” or “completion of the person's sentence” (both used in statute to include “any term of confinement imposed and payment of all fines, costs, and restitution imposed”)	0 or 2	Tex. Gov’t Code §§ 411.073, 411.0735
	Felony	No general felony record clearing	N/A	N/A
Utah	Misdemeanor	<i>Petition-based relief:</i> 3 or 5 years from the “date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge” (10 years for certain DUI offenses). <i>Automatic relief:</i> 5, 6, or 7 years “from the day on which the case is adjudicated”	3, 5, 6, or 7	Utah Code Ann. §§ 77-40-105(4)(c)
	Felony	“date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for	7	Utah Code Ann. §§ 77-40-105(4)(c)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
		each conviction the petitioner seeks to expunge" (10 years for certain DUI offenses)		
Vermont	Misdemeanor	"date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously."	5	Vt. Stat. Ann. tit. 13, § 7602(b)(1)(a)
	Felony	"date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously."	5	Vt. Stat. Ann. tit. 13, § 7602(b)(1)(a)
Virginia	Misdemeanor	<i>Petition-based relief:</i> "conviction, or...release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later"; <i>Automatic relief:</i> "date of the conviction"	7	Va. Code Ann. §§ 19.2-392.12(f)(1), 19.2-392.6(c)
	Felony	"conviction, or...release from incarceration of the charge or conviction set forth in the petition, whichever date occurred later"	10	Va. Code Ann. § 19.2-392.12(f)(1)
Washington	Misdemeanor	"completed the terms of the sentence, including any financial obligations"	3	Wash. Rev. Code § 9.96.060
	Felony	"later of: (i) The applicant's release from community custody; (ii) the applicant's release from full and partial confinement; or (iii) the applicant's sentencing date;"	5 or 10	Wash. Rev. Code § 9.94A.640
West Virginia	Misdemeanor	For one misdemeanor: "conviction, completion of any sentence of incarceration or completion of any period of supervision, whichever is later in time." For multiple misdemeanors: "the last conviction, completion of any sentence of incarceration, or completion of any period of supervision ordered for the last conviction, whichever is later in time."	1 or 2	W. Va. Code § 61-11-26(b)

State	Classification of Conviction	Waiting Period Begins	Waiting Period (years)	Citation
West Virginia	Felony	“after conviction, completion of any sentence of incarceration, or completion of any period of supervision, whichever is later in time”	5	W. Va. Code § 61-11-26(b)
Wisconsin	Misdemeanor	No general misdemeanor record clearing	N/A	N/A
	Felony	No general felony record clearing	N/A	N/A
Wyoming	Misdemeanor	“the expiration of the terms of sentence imposed by the court, including any periods of probation or the completion of any program ordered by the court”	5	Wyo. Stat. Ann. § 7-13-1501
	Felony	“(A) The expiration of the terms of sentence imposed by the court, including any periods of probation; (B) The completion of any program ordered by the court; and (C) Any restitution ordered by the court has been paid in full.”	10	Wyo. Stat. Ann. § 7-13-1502

SB710 - Testimony.pdf

Uploaded by: Christopher Sweeney

Position: FAV



JUSTICE FOR ALL

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
**IN SUPPORT OF SB710: CRIMINAL PROCEDURE –
EXPUNGEMENT OF RECORDS - MODIFICATION**
MARCH 8, 2022

Susan Francis
EXECUTIVE DIRECTOR

BOARD OF DIRECTORS

Anthony P. Ashton
PRESIDENT

Alexandria K. Montanio
VICE PRESIDENT

David G. Sommer
TREASURER

Penny J. Minna
SECRETARY

Tyree Ayres
Shereefat O. Balogun
Matthew M. Bryant
Jhonell Campbell
Richard L. Costella
Brian Gordon
La'Tika Howard
Dr. Ann Irvine
Robin Leone
Reba Letsa
Saad Malik
Michael March
Amy M. McClain
Dana W. McKee
Charles J. Morton, Jr.
Derek P. Roussillon
Marc E. Shach
Dennis J. Shaffer
James Tansey

Chairman Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 710. 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 on SB 710.

MVLS' Workforce Development Project is a partnership with occupational training programs in Baltimore City and is a continuation of the Mayor's Office's 'One Baltimore for Jobs' pilot program. The Mayor's Office of Employment Development began One Baltimore for Jobs to respond to the civil unrest in 2015. The project supports job programs, social services programs, and legal services programs in Baltimore, connecting those programs with support from state agencies such as the Office of Child Support and the Motor Vehicle Administration. Though funding for legal services via One Baltimore for Jobs has ended, MVLS has continued its part of the project and currently supports six workforce programs in Baltimore. MVLS works with Civic Works, Job Opportunities Task Force, Jane Addams Resource Corporation, Caroline Center, Biotechnical Institute of Maryland, Bon Secours Community Works, and Helping Up Mission to provide 'wrap-around' services – supplementing the trainees' workforce training and 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. The majority of clients we see through this project have criminal cases on their records.

Under Maryland's current expungement law, people who have a handful of convictions for non-violent crimes are often trapped with a permanent criminal record. Waiting periods of ten to fifteen years for a single conviction are prohibitive enough for those seeking to

stabilize their life through employment and housing. But these waiting periods, in conjunction with the subsequent conviction rules, make it quite rare for anyone with more than one conviction to obtain expungement. I have assisted many people who lived through a period of poverty, addiction, and crime. This resulted in a cluster of convictions on their record, spanning a few years. Though these clients have left their past behind them and completed all court-ordered sentencing, they are denied jobs and housing due to events that took place more than fifteen years ago, sometimes even thirty years ago. Shortening waiting periods for the expungement of convictions will allow people to become engaged members of society rather than be continually punished for their past actions.

A recent report by Collateral Consequences Resource Center, which I have included here as an attachment, found that of U.S. states that allow criminal record clearing, Maryland is one of only three states with waiting periods in the double digits for misdemeanors.

Importantly, this bill authorizes expungement of convictions only after the completion of sentence, including incarceration, parole, and/or probation. Someone who has served their time according to the lengths deemed just by our courts need not be punished again when they apply for a job fifteen years later. Maryland should not be a state where people are forever defined by their worst moments.

Another crucial aspect of this bill is the expansion of the types of offenses eligible for expungement. Having represented over 750 clients seeking expungement, I am closely familiar with how our current law works. The enumerated list of misdemeanors, and a few felonies, that are currently singled out for eligibility has resulted in a number of unjust and unintended outcomes. For example, malicious burning of property in the 2nd degree is an eligible conviction, but malicious destruction of property is not. Certain types of public alcohol consumption are listed, but “Open Container” is not specifically mentioned, causing some courts to reject applications for this charge. Moderately serious offenses like felony theft are eligible, but almost no comparatively minor traffic offenses, such as driving without a license, are eligible. Only in the previous legislative session was the obvious error of allowing 1st, 2nd, and 3rd degree burglary to be expunged, but not 4th degree, corrected. The most minor of crimes, such as trespassing, require a ten-year waiting period to expunge. These unjust consequences can be avoided by including all misdemeanors in the statute and lowering wait times.

I have represented hundreds of clients who were convicted of an eligible offense, say drug possession, ten or fifteen years ago, only to have that case permanently blocked due to a subsequent conviction for a traffic offense. Many traffic offenses, most of which are ineligible for expungement, are the result of inability to pay fines and fees, and a permanent criminal record only hurts a person’s chances of obtaining gainful employment and paying back those debts.

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. SB710 would advance our vision of a more just Maryland. This vision includes a system where people convicted of non-violent crimes, who have paid their debt to society and left their past behind them, can seek employment without fear of rejection. We at MVLS respectfully request a favorable report on Senate Bill 710.

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

SB 710 - Maryland REDEEM Act of 2022.pdf

Uploaded by: Daryl Yoder

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD District 12. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder

309 Glenmore Ave.

Catonsville, MD 21228

Showing Up for Racial Justice Baltimore

OFJ SB0710_FAV.pdf

Uploaded by: Elaina McWilliams

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 710:
Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Nicole Hanson-Mundell, Executive Director, Out for Justice, Inc.**

DATE: March 8th, 2022

Out for Justice, Inc. (OFJ) is an organization led by individuals who are both directly and indirectly impacted by the criminal justice system. We advocate for the reform of policies and practices that adversely affect successful reintegration into society. We accomplish our mission through the three E's: 1) **ENGAGE** formerly incarcerated individuals, families and friends through grassroots outreach and community events; 2) **EDUCATE** our member base and communities on the policies and practices impacting our communities and navigating the legislative process for reform; 3) **EMPOWER** those impacted by the criminal justice system to utilize their voices and experiences to enact tangible change.

Out for Justice, Inc. support(s) Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years.

One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period



kicks in **after** they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14-101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgement
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10-105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million **Marylanders (REDEEM)** who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a decade **after** they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.
Sincerely,

Nicole Hanson-Mundell
Executive Director
Out for Justice, Inc.

SB 710 - Maryland REDEEM Act of 2022.pdf

Uploaded by: Erica Palmisano

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD District 12. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,

Erica Palmisano
5580 Vantage Point Rd, Apt 5, Columbia, MD
Showing Up for Racial Justice Baltimore

SB0710_FAV_GLENN ROSENBERG.pdf

Uploaded by: Glenn Rosenberg

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Mr. Glenn Rosenberg

DATE: March 8th, 2022

I, **Glenn Rosenberg**, support Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

I find this bill to be of the utmost importance due to the fact that many who leave the criminal justice system have little to no prospects for employment which pushes them to acts of desperation to secure the resources they need to survive. Having spoken to many individuals in prison, several of them made the same comment about how if they couldn't get a job once they got out, or saw no other option for providing for themselves or their families, they would simply turn to robbery and theft. If these individuals were able to qualify earlier for record expungement, they would have had access to far more employment opportunities which would have allowed them to seek for themselves a positive role in the community they reintegrated into. Without a sense of pride and purpose, many of those with criminal records, which become like scarlet letters worn in shame as a life sentence, find themselves without a choice but to continue with criminal activity.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10**

years before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgment
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710.

Testimony in Support of SB 0710 Warnken.pdf

Uploaded by: Heather Warnken

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Heather Warnken, Executive Director, Center for Criminal Justice Reform, University of Baltimore School of Law**

DATE: March 8th, 2022

Good afternoon Chairman Smith and members of the Committee. My name is Heather Warnken and I am the Executive Director of the University of Baltimore School of Law's Center for Criminal Justice Reform. The Center is dedicated to supporting community driven efforts to improve public safety and address harm and inequity caused by the criminal legal system.

In direct alignment with this mission, we are grateful for this opportunity to testify in support of Senate Bill 710. The impact of incarceration on individuals, families and communities is staggering, including the long list of collateral consequences that can follow a justice-involved individual for years, well after a case concludes. These impacts span numerous areas central to a person's ability to survive and thrive, impeding access to stable housing, education, healthcare, voting, occupational licensing, rights related to the parent-child relationship and more.

A [groundbreaking study just published in the journal Science Advances](#) sheds new light on the staggering impact of a criminal record on employment prospects specifically - not just for individuals but for the economy as a whole.¹ The study found that the stigma of a criminal record runs deeper than had ever previously been quantified: finding that more than half of unemployed men in their 30s have criminal records. Among 35-year-old unemployed men, 64 percent have been arrested and 46 percent have been convicted of a crime. The population of unemployed Americans is "uniquely saturated with individuals who have histories of involvement with the criminal justice system," the study notes.

One smart and urgent way to address this is through the exact type of solutions posed in Senate Bill 710.

Every year, the approximately 15,000 Marylanders released from state prisons face substantial hurdles to their successful reentry. One out of three Marylanders returning from incarceration return to Baltimore City where our Center is located. It should light a fire under all of us to know that the racial disparities surrounding incarceration and the disenfranchisement it causes in this state are the highest in the nation: 72% of Maryland's prison population is black.

¹ <https://www.science.org/doi/10.1126/sciadv.abj6992>.



Given the substantial hurdles to successful reentry, the high rates of recidivism should not surprise us. The Department of Justice has [found](#) half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years.² The inability of returning citizens to find a job is a substantial driver of this, with up to 60 percent of formerly incarcerated persons remaining unemployed one year after their release.

Maryland has substantially longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most nonviolent misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah.³ With regards to non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma.

Senate Bill 710 is a common sense policy that will open doors to employment and more for many among the 1.5 million Marylanders currently shut out of the workforce due to a criminal record. The provisions of this bill are well in line with what states across the country and across the political spectrum are embracing on this issue. For these reasons, we urge a favorable report on Senate Bill 710.

² <https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-30-states-2005-patterns-2005-2010-update>.

³ <https://ccresourcecenter.org/wp-content/uploads/2022/02/Waiting-Periods-Draft.2.22.21-2.pdf>.

SB 710 - Maryland REDEEM Act of 2022.pdf

Uploaded by: Holly Powell

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD 46. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,

Lilly Chapa
210 S. Washington Street
Baltimore, Maryland 21231

Holly Powell
2308 Cambridge Street
Baltimore, Maryland 21224

Brian Seel
223 S. Wolfe Street
Baltimore, Maryland 21224

Christina Pham-Linhoff
46 E. Randall Street
Baltimore, Maryland 21230
Showing Up for Racial Justice Baltimore

HPP Testimony-SB 710 FAV WITH SPONSOR AMENDMENTS.

Uploaded by: Jessica Emerson

Position: FAV

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 Schluskel, *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>.

Health Care for the Homeless - SB 710 FAV - REDEEM

Uploaded by: Joanna Diamond

Position: FAV

HEALTH CARE FOR THE HOMELESS TESTIMONY
IN SUPPORT OF
SB 710 – Criminal Procedure - Expungement of Records -
Modifications

Senate Judicial Proceedings Committee
March 8, 2022



Health Care for the Homeless supports SB 710, which expands the list of offenses eligible for expungement and significantly streamlines the expungement process, which will have a significant impact on increasing access to employment and housing services.

SB 710 helps end homelessness by reducing barriers to employment and housing. Criminal records, including records of non-convictions, create almost insurmountable barriers to obtaining employment, housing, education, and other critical resources like social safety net programs.¹ In a 2011 Health Care for the Homeless study, which surveyed 429 people who had been released from jail or prison within the past 10 years, respondents most frequently cited the inability to find work (57%) and a criminal record (56%) as the barriers preventing them from accessing stable housing.² As a supportive housing services provider, we see the direct impact that a criminal record can have on an individual's ability to obtain housing. SB 710 serves to directly eliminate such barriers to housing.

As part of our health care services, Health Care for the Homeless provides permanent supportive housing to over 400 people. As such, we work closely with local housing authorities and see firsthand how convictions can explicitly prevent someone experiencing homelessness to be housed. For instance, the Housing Authority of Baltimore City (HABC) will deny eligibility for admission for a period of 18 months for a misdemeanor conviction and for a period of three years for a felony conviction beginning on the date of conviction or the release from incarceration, whichever is later.³ Therefore, the ability to expand and streamline expungements for misdemeanors and certain felonies will have a significant impact in providing greater and more expedited housing opportunities for our clients.

Nuisance crimes such as urination in public, soliciting or panhandling, loitering, vagrancy,⁴ etc., are crimes oftentimes related to homelessness or extreme poverty.⁵ Therefore, convictions for such offenses are common barriers to our clients receiving housing and jobs. Streamlining the time period for nuisance crime

¹ See American Public Health Association, *Housing and Homelessness as a Public Health Issue* (Nov. 2017), available at <https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>.

² Health Care for the Homeless, Inc., *Still serving time: struggling with homelessness, incarceration & re-entry in Baltimore* (October 2011), available at <http://www.hchmd.org/research.shtml>.

³ Housing Authority of Baltimore City, *Admissions & Continued Occupancy Policies FY 2017*, available at <http://static.baltimorehousing.org/pdf/HABCACOPFY2017.pdf>.

⁴ See Md. Code Ann., Crim. Proc. §10-105(a)(9).

⁵ *No Safe Place The Criminalization of Homelessness in U.S. Cities*, National Law Center on Homelessness & Poverty (Feb. 2013), available at https://www.nlchp.org/documents/No_Safe_Place 11 See resolution 104H.

convictions so that they may be expunged after the completion of probation or parole is not only practical, but it's the right thing to do for some of our most vulnerable populations.

Adding warrants to the list of offenses eligible for expungement, lowering the time period to wait to petition for expungements for specific offenses and dispositions, and streamlining the expungement process will reduce barriers to employment and housing – and so is an important measure that will help reduce the incidence of homelessness. SB 710 rightly recognizes that individuals should not be penalized or stigmatized for charges they received where they have paid their debt to society or for charges where they were never convicted in the first place. We urge a favorable report by the committee.

Health Care for the Homeless is Maryland's leading provider of integrated health services and supportive housing for individuals and families experiencing homelessness. We work to prevent and end homelessness for vulnerable individuals and families by providing quality, integrated health care and promoting access to affordable housing and sustainable incomes through direct service, advocacy, and community engagement. We deliver integrated medical care, mental health services, state-certified addiction treatment, dental care, social services, and housing support services for over 10,000 Marylanders annually at sites in Baltimore City, and in Harford, and Baltimore Counties. For more information, visit www.hchmd.org.

NCADD-MD - SB 710 FAV - Expungement Modifications

Uploaded by: Nancy Rosen-Cohen

Position: FAV



Senate Judicial Proceedings Committee

March 8, 2022

Senate Bill 710

Criminal Procedure - Expungement of Records - Modifications

Support

NCADD-Maryland strongly supports Senate Bill 710.

NCADD-Maryland has long advocated for policies that help people involved with the criminal justice system avoid some of the unintended collateral damage caused by our drug policies. When people who struggle with substance use disorders get treatment and start the recovery process, criminal records are often huge barriers to success. Obtaining employment and housing is difficult, and sometimes impossible. Without a place to live or a reliable income, some people are much more likely to re-offend and/or return to alcohol and drug use.

The legislation, also known as the REDEEM Act (Record Expungement Designed to Enhance the Employability for Marylanders), will provide access to the 1.5 million Marylanders who are shut out of the workforce due to a criminal record. The bill will reduce the expungement waiting periods of non-convictions, PBJs, and stets to within one year after the disposition, and allow misdemeanors and nonviolent felony convictions to be eligible for expungement within three and years, respectively, after the completion of the sentence, possible drug treatment, and any mandatory supervision, including parole and probation.

These kinds of policy changes are a necessary component to significantly improving our communities. When people have served their time, they should have the opportunities and supports needed to ensure they are able maintain productive lives and livelihoods with their families. Removing some of the barriers to success will also help people with substance use disorders maintain their recovery.

We urge your support of Senate Bill 710.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

SB 710 - Maryland REDEEM Act of 2022.pdf

Uploaded by: Patrick Sadil

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD District 46. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,
Patrick Sadil, PhD
1637 Fleet Street, FL 1
Baltimore MD 21231
Showing Up for Racial Justice Baltimore

SB0710_FAV_Batten .docx.pdf

Uploaded by: Qiana Johnson

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Mairin Batten, MA, CCC-SLP**

DATE: March 8th, 2022

I am a Maryland resident of Prince George's County and a concerned citizen. I work with the organization Life After Release, which aims to support communities impacted by incarceration through the building of relationships, knowledge, and self-determination. As a Maryland resident, I support efforts to decrease the impact of incarceration on communities through bills, such as Senate Bill 710, which would allow for members of my community to work and support their livelihoods as well as those of their families. The ability to hold a job and support oneself and one's family should be a right and should not be unfairly withheld from members of my Maryland community that have already served their time.

Mairin Batten supports Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the

actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 - a. From 3 years to immediately
2. Probations Before Judgement
 - a. From 3 years to eligible at the completion of Probation
 - i. Not including Traffic Charges - DUI
3. Stets, Not criminally responsible, MJ possession
 - a. From 3 years to 1 year
 - b. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
4. Misdemeanors
 - a. From 10 to 3 years
5. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
 - a. From 15 to 5 years
6. Non-Violent Felonies
 - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn’t be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.

SB 710 - Maryland REDEEM Act of 2022.pdf

Uploaded by: Sarah Johnson

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD District 41 in Baltimore City. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,

Sarah Johnson
1 Merryman Court
Baltimore, MD 21210
Showing Up for Racial Justice Baltimore

SB 710_FAV_SARAH SMITH.pdf

Uploaded by: Sarah Smith

Position: FAV

TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Sarah Smith, volunteer with Life After Release**

DATE: March 8th, 2022

Life After Release is a grassroots organization led by formerly incarcerated Black women that supports community members before, during, and after they encounter the criminal (in)justice system. Life After Release also advocates for the abolition of policing and prisons while advocating for greater community care and support to truly keep people safe.

Sarah Smith support(s) Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

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. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15**

years for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 1. From 3 years to immediately
1. Probations Before Judgement
 1. From 3 years to eligible at the completion of Probation
 1. Not including Traffic Charges - DUI
1. Stets, Not criminally responsible, MJ possession
 1. From 3 years to 1 year
 2. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
1. Misdemeanors

1. From 10 to 3 years

1. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)

1. From 15 to 5 years

1. Non-Violent Felonies

1. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million **Marylanders (REDEEM)** who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn't be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.

SB 710 - Maryland REDEEM Act of 2022.docx.pdf

Uploaded by: Tamara Todd

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City, Baltimore County, and Howard County. We are also working in collaboration with Out for Justice and the Job Opportunities Task Force. I am a resident of MD District 10. **I am testifying in support of Senate Bill 710.**



This bill seeks to expand access to criminal record expungement for the 1.5 million Marylanders with a criminal record by allowing nonviolent misdemeanor and felony convictions to be eligible for expungement three (3) and (5) years, respectively, after completing any mandatory supervision, including parole and probation.

A criminal record can easily be both the cause and consequence of poverty. The appearance of a criminal record in a routine background check can, and often does, block access to employment, education, housing and occupational licensing- all of which are necessary to advance in Maryland.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. Maryland Code Ann., Criminal Procedure §10–110 states that an individual must wait 10 years before they are eligible to expunge most nonviolent misdemeanor convictions from their record, 15 years for a common-law battery or 2nd-degree assault conviction, and 15 years for a non-violent felony. The waiting period kicks in after they have completed their entire sentence, parole or probation, drug treatment, and any mandatory supervision. In most instances, the waiting periods are far longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 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. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement.

Nonviolent misdemeanors, such as public urination, sleeping on a park bench, or riding public transit without a fare, are frequently the result of poverty or homelessness. Expunging these records after completion of any sentencing prevents these small violations from holding back someone who is looking for a job or applying for housing. It helps to break one link in the cycle of poverty so that progress is more accessible for those seeking education, a job, or an occupational license.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 710.**

Thank you for your time, service, and consideration.

Sincerely,
Tamara Todd
221 Northway Rd, Reisterstown MD 21136
Showing Up for Racial Justice Baltimore

SB710 FAIR Fav with Amend.pdf

Uploaded by: Brenda Jones

Position: FWA

SB710: Criminal Procedure – Expungement of Records – Modifications

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We find much to applaud in SB710, and ask that only one amendment be made for full support. Remove the blanket expungement exclusion of everyone required to register.

Only a very small portion of persons with a single sexual offense qualify for expungement. They are by definition already vetted by the court as being extremely low-risk, and would benefit from the same opportunity.

This bill is making a broad-brush exclusion. Many people do not realize that absolutely EVERY offense of a sexual nature puts people on Maryland's registry, including non-violent offenses. Registries are "sold" as a resource people can check to keep their kids safe, but in reality the vast majority of people on it will never commit another offense, even those who committed a crime against a child.

Please amend SB710 to remove that exception against registrants. There are many people we know with very low-level sexual offenses who already hope to apply for expungement under the existing law. They will be grateful not to lose that opportunity.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries
Cell: 301-318-8964

SB 710 Testimony.pdf

Uploaded by: Charlotte Ahearn

Position: FWA



**MARYLAND
LEGAL AID**

Advancing
**Human Rights and
Justice for All**

**STATEWIDE
ADVOCACY SUPPORT UNIT**

Cornelia Bright Gordon, Esq.
Director of Advocacy
for Administrative Law
(410) 951-7728
cbgordon@mdlab.org

Gregory Countess, Esq.
Director of Advocacy
for Housing & Community
Economic Development
(410) 951-7687
gcountess@mdlab.org

Anthony H. Davis, II, Esq.
Director of Advocacy
for Consumer Law
(410) 951-7703
adavis@mdlab.org

Erica I. LeMon, Esq.
Director of Advocacy
for Children's Rights
(410) 951-7648
elemon@mdlab.org

March 7, 2022

Senator William C. Smith, Jr.
Chairman, Judiciary Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: Testimony Supporting Senate Bill 710 – Criminal Procedure – Expungement
of Records – Modifications

Dear Chairman Smith and Members of the Committee:

Thank you for the opportunity to provide testimony in support of this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to Maryland's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law (e.g., bankruptcy and debt collection), and criminal record expungements to remove barriers to obtaining child custody and housing, a driver's license, and employment. MLA supports Senate Bill 710 and asks that this Committee give it a favorable report with sponsor amendments.

This letter serves as notice that Charlotte Ahearn, Esq. will testify on behalf of MLA in support of Senate Bill 710 at Senator Obie Patterson's request. MLA's Community Lawyering Initiative brings legal services directly into marginalized communities to ensure that the most vulnerable citizens have access to advocacy within the justice system. The Community Lawyering Initiative assists individuals and families with many legal issues, including criminal record expungement. Since 2016, MLA has represented over 10,000 Marylanders with criminal record expungements and filed over 50,000 petitions for expungement. This work has provided constituents more significant access to housing, employment, and other opportunities for themselves and their families.

Senate Bill 710 will benefit thousands of Marylanders, especially those in communities subject to over-policing and other manifestations of systemic oppression. It dramatically expands access to justice and employment opportunities for low-income Marylanders. First, including fugitive warrants as expungable offenses will directly and positively impact many MLA clients. A fugitive warrant is issued when a defendant is arrested in Maryland for a case originating in another jurisdiction. Once the individual is apprehended, the warrant is dismissed; however, these cases are never expungable under current

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlab.org
04.2021



Maryland law. The item remains on a person's criminal record, even if the underlying case in the controlling jurisdiction is dismissed or the individual is found not guilty. The stigma attached to a criminal record listing of "fugitive from justice warrant" is a tremendous obstacle for Maryland citizens.

Another aspect of this bill, expanding expungements to misdemeanor convictions and non-violent felonies under certain circumstances, will offer individuals a fresh start. Many Maryland residents have convictions on their records that are decades old. Without the ability to expunge these cases, MLA clients face countless collateral consequences and punitive results, continuing the lifetime sentence of the inability to seek work or housing. Senate Bill 710 encourages and empowers individuals with minimal or no employment prospects to re-enter society and participate meaningfully in the workforce. It will reduce recidivism and limit the collateral consequences of the criminal justice system.

Senate Bill 710 disrupts the many cycles of systemic oppression, allowing your constituents the opportunity to better themselves, their families, and their communities. It provides a second chance and increases opportunities while protecting public safety.

Thank you for providing MLA the opportunity to comment on this vital piece of legislation. Maryland Legal Aid strongly supports Senate Bill 710 and asks that this Committee give it a favorable report with sponsor amendments.

Respectfully Submitted,

/s/ Charlotte Ahearn

Charlotte Ahearn, Esq.

Community Lawyering Initiative

Maryland Legal Aid

SB 710 - OPD .pdf

Uploaded by: Mary Denise Davis

Position: FWA



PAUL DEWOLFE
PUBLIC DEFENDER
KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER
MELISSA ROTHSTEIN
DIRECTOR OF POLICY AND DEVELOPMENT
KRYSTAL WILLIAMS
DIRECTOR OF GOVERNMENT RELATIONS DIVISION
ELIZABETH HILLIARD
ASSISTANT DIRECTOR OF GOVERNMENT RELATIONS DIVISION

POSITION ON PROPOSED LEGISLATION

BILL: SB 710 -- Criminal Procedure - Expungement of Records - Modifications

FROM: Maryland Office of the Public Defender

POSITION: Favorable, with amendments

DATE: 3/7/22

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 710 with some amendments.

The Public Defender's Office established a weekly expungement clinic in the NorthWest area of Baltimore and partnered with other organizations to offer an annual event - Back to the Neighborhood: How to Succeed with a Criminal Record." During this time - there have been some major changes in the expungement law since 2007, including last year when the automatic expungement became a reality – allowing for the automatic expungement of certain favorable dispositions – acquittals, dismissals, and *nolle prosequis*. This law has the impact to change so many lives for years to come.

OPD has advocated for change to allow our clients to move forward and not be burdened with the stigma of a criminal record years after the act - including not just what is on a person's RAP sheet but what is available on Maryland Judiciary Case Search and the information that has been obtained and disseminated by private databases. I like to refer to expungement as a form of legal redemption that should be accessible to all who have changed their lives and their stories for themselves and their families.

For some clients, the past remains in the past but for many clients it will resurface when they are looking for employment or advancement in their current jobs; looking for better housing opportunities; or looking to further their education. It is this period of time of waiting that can have such a drastic impact. The changes that these clients are hoping for may not be actualized because of these favorable or conviction dispositions are remaining on their criminal record and Maryland Judiciary Case Search; and also that these dispositions remain in private databases. The easy access by employers, landlords, and the general public is a double edge sword. We like when we can obtain this access to others' records but not when others can obtain this access about us. It is vital that individuals who have rehabilitated themselves or have never been found guilty in a case be allow to file for expungement.

Suggested amendments:

1. The courts generally do not invalidate a fugitive warrant. The warrant is dismissed. In order to make sure there is no conflict when the clients file for expungement, it would be clearer to make sure a dismissal disposition is also included.
2. If there is no treatment imposed, but another type of condition is imposed on a nolle prosequi, STET, or probation before judgment, the expungement is eligible when the condition is met. If no conditions are requested, the probation before judgment should be eligible immediately.
3. The person should not be entitled to an expungement of a probation before judgment until the person is discharged from probation and is eligible as soon as they are discharged from probation.
4. Attempt, Conspiracy, or Solicitation are common law offenses and unless the offense has been codified should be eligible unless prohibited otherwise.

The Maryland Office of the Public Defender strongly supports these additional changes to the existing law with some amendments and requests a favorable report on Senate Bill 710.

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.

MCPA-MSA_SB 710 _Expungement-Modifications-OPPOSE.

Uploaded by: Andrea Mansfield

Position: UNF



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William Smith, Jr., Chair and
Members of the Judicial Proceedings Committee

FROM: Chief of Staff David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 8, 2022

RE: **SB 710 Criminal Procedure – Expungement – Modifications**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** SB 710. This bill authorizes a person to file an expungement for certain arrest warrants and reduces the waiting time in which a person can file for an expungement.

MCPA and MSA, while understanding the desire to provide a second chance for persons in certain circumstances, generally oppose legislation that increases the categories or timeframes for expungement because it could interfere with the necessary access to prior criminal information. In some instances, this could be a safety factor for law enforcement personnel in carrying out their official duties.

Each year, several pieces of legislation are introduced that seek to adjust the considerations and time frames under which expungement, pardons or shielding can be sought. MCPA and MSA believe such changes require participation and input from the judiciary, prosecutors, and law enforcement and, rather than being dealt with in a piecemeal manner, should be addressed comprehensively in a process that involves all stakeholders and in a setting that is conducive to reasonable solutions while, at the same time, not effecting public safety.

For these reasons, MCPA and MSA **OPPOSE SB 710** and urge an **UNFAVORABLE** Committee report.

SB 710 Written Testimony.pdf

Uploaded by: John Cox

Position: UNF

Bill Number: SB 710
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO SENATE BILL 710
CRIMINAL PROCEDURE - EXPUNGEMENT OF RECORDS - MODIFICATIONS

The Maryland States Attorneys Association is opposed to Senate Bill 710, Criminal Procedure-Expungement of Records- Modifications and asks for an unfavorable report. The Bill contains both what are presumed to be drafting errors which would cause significantly serious harm and in the balance of the proposed legislation creates a system well beyond that which is appropriate if the effort of the Legislature is to still require some accountability for crimes against the citizens of this State.

In 2016, the Maryland Legislature embarked on a mission and project which became the Justice Reinvestment Act. Included within this extensive package aimed at addressing the criminal justice system, as it existed, was a major change and expansion of expungement availability for those intent on first paying their debt to society but then intent on making a future for themselves without the constraint of a criminal record. In doing so, however, the Legislature was cognizant of and created statutes which still required some accountability and protection of society. This Bill will take us well beyond consideration for some accountability and provide little ability to protect society from those who choose to repeatedly commit offenses.

The first major area of concern in the bill is in regard to the removal of Criminal Procedure Article, §10-105(c)(2). We can only hope that this was a drafting error. This subsection, as it currently exists, places a time barrier for the expungement of a Probation Before Judgment(PBJ). Currently, a person cannot petition to expunge a PBJ until the later of (1) discharge from probation, or (2) three years after the PBJ was granted. With the subsections removal, the proposed legislation does not place a time frame anywhere else for PBJ's unless the PBJ included drug or alcohol treatment. This means that an expungement would be required if requested immediately upon the imposition of the PBJ. This would obviously, therefore, include a person having been just been placed on probation. A Judge could grant a person a PBJ with a term of supervised probation with the aim of getting a person domestic violence education, restitution to a victim, home detention, prohibition of contact with a victim and so many other things and all of it would be obliterated from all records within minutes after being directed. This clearly could not be what the drafter intended but it is what would happen with this legislation.

The next disturbing effect of the legislation is to change the time period in which an individual may expunge a stet from three years to one year. Stets are often utilized

to accomplish an aim such as preventing contact between the individual charged and the victim, or to gain restitution or to assure an individual undergoes domestic violence education or anger management counseling. Most commonly, an individual is given the opportunity to show they can be law abiding for an appreciable period of time. A stet can be reopened on request of a party for no reason for the first year of the stet and for good cause after that. It has become a logical time period that three years has been the time period in which a charged individual can demonstrate their ability to remain law abiding or successfully complete other terms of a stet such as pay restitution or have no contact with the victim. This change would permit the effort to achieve such an aim to be obliterated after one year. Practically, it would very likely result in a significant decrease in the times in which a prosecutor is willing to stet a case.

The bill's proposed changes to Criminal Procedure §10-110 are also of grave concern. The bill would first permit the expungement of every conviction for a misdemeanor. Currently, there is a lengthy list of convictions of misdemeanors which are permitted expungement. This list was created with the hard work of the legislators of this body in 2016. The legislators knew that there were certain misdemeanors which should not be permitted expungement. This bill would open up expungement to all of those misdemeanors. A list of just some examples of convictions which would be permitted expungement is at the end of this written testimony. A few examples, however, are very telling. First, this legislation would permit expungement of a DUI. It is particularly ironic to note that a person could not expunge a PBJ for a DUI but could expunge a tenth conviction for a DUI as soon as the person might be released from a three year sentence for that DUI. In addition, the Judge may never have known of the nine prior convictions for DUI because the defendant would be able to expunge them. Take another example, an individual is convicted of violation of a protective order, stalking and second degree assault and sentenced to three years in prison. That person misbehaves so badly in prison that they are not given any credit while incarcerated and not paroled early. That individual can then expunge those convictions the day he or she is released from prison. The Legislature properly considered the offenses for which convictions are entitled to expungement six years ago. That should not change now.

The bill then proposes to permit expungement of all felonies other than the ones listed to be excepted from potential for expungement. The first category for which expungement would not be permitted is a crime of violence. Crime of violence is not defined nor is there reference to other parts of the code which define crime of violence. The next category excepted from expungement is a hate crime under Title 10, Subtitle 3. However, most of the hate crimes under Title 10, Subtitle 3 are misdemeanors and, therefore, subject to expungement. A person cannot expunge a felony Cruelty to an Animal and cannot expunge a felony crime which requires the person to register as a sex offender. It would appear, therefore, that one could expunge a Third Degree Sexual offense if they committed the crime before the requirement of registration. Attached to this testimony is also a list of felonies which could now be expunged. Again, particular

examples are very telling. With this legislation, an individual could be convicted of being a drug kingpin or second degree child abuse or extortion or being an accessory after the fact to a first degree murder, get five years in prison, get no credits because of bad behavior in prison and get the conviction or convictions expunged the day the individual steps out of prison. This is a disservice to the law abiding citizens of Maryland. Years ago this Legislature carefully considered what felonies can be expunged after considering all of the options. The list of those which currently can be expunged ought to be the limit on removing all record of such a serious crime.

The bill also changes significantly the time frame an individual can have all record of a conviction erased from public access or even an ability of the criminal justice system to consider when and if the person commits another crime. This bill would require only three years to wait to expunge a misdemeanor if they have completed their sentence rather than ten years. It would reduce the length of time to show that the person can be law abiding and not again assault their significant other from fifteen years to five years for a crime which is domestically related. It would reduce the time to expunge a felony from fifteen years to five years.

The public deserves to be able to know of a serious crime committed by a person for longer than three years or five years. An individual convicted ought to be able to show for longer than three years that they can be law abiding in the future particularly if they may not have even been free in society for any of that time.

In another part of the bill, it provides that an arrest warrant or fugitive warrant is a part of the police record and then permits the expungement if an arrest warrant or fugitive warrant "is invalidated". The Bill, however, does not define what "invalidated" means. It is a common occurrence that a charging document is issued and an arrest warrant is issued. It is also common that a defendant, usually through counsel, will ask a judge to quash the warrant and substitute it with a summons to appear to face the charge or charges. Does this mean the warrant has been invalidated? Does that action create an opportunity for the case or the warrant which had been issued to be expunged from an ongoing case?

This bill would defeat the trust the public should have in a criminal justice system which should hold a person accountable for their acts for at least an appreciable period of time in order to assure the public's safety from those who choose to commit crime. We urge an unfavorable report.

Some of the misdemeanors convictions which would be added to eligibility for expungement:

DUI

Attempted Sexual Abuse of a Minor

Attempted Distribution of Fentanyl

Conspiracy to Distribute Fentanyl

Possession of Child Pornography

Fourth Degree Sexual Offense

Indecent Exposure

Embezzlement

Identity Theft

Perjury

Subornation of Perjury

Hate Crimes

Stalking

Witness Intimidation

Obstruction of Justice

Possession of Contraband in a Place of Confinement

Animal Abuse

Visual Surveillance with Prurient Intent

Threat of Mass Violence

Wear, Carry or Transport a Handgun

Threat of Arson

Violation of a Protective Order

Some of the felonies which would be added to eligibility for expungement:

Second Degree Child Abuse

Abuse of a Vulnerable Adult

Exploitation of a Vulnerable Adult

Accessory after the Fact to First Degree Murder

Second Degree Arson

Drug Kingpin

Attempted Poisoning

Counterfeiting

Extortion

Identity Fraud

Automobile Manslaughter

Participation in a Criminal Organization

Sale of a Minor

Medicaid Fraud

Labor Trafficking

First Degree Escape

Delivering a Weapon into a Place of Confinement

Third Degree Sexual Offense (if the crime occurred prior to registration requirements)

Production or Distribution of Child Pornography (if the crime occurred before registration requirements)

sb710.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 710
Criminal Procedure – Expungement of Records - Modifications
DATE: March 2, 2022
(3/8)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 710. This proposed legislation provides that a petition for expungement of arrest warrants and fugitive warrants is authorized under Criminal Procedure § 10-105(a) if the arrest warrant or fugitive warrant is invalidated.

The bill also amends CP § 10-105(c) to authorize a petition to be filed **immediately after a disposition** of an acquittal, nolle prosequi, or dismissal, eliminating a filing of a waiver and release form and the current 3-year waiting period.

It should be noted that the court is not able to determine if all court-ordered conditions of the probation or stet have been satisfied. That determination is made by other criminal justice agencies. Further, this bill presents public safety concerns as it is possible someone would be eligible to file for an expungement as soon as he or she was released from a correctional facility.

In addition, this bill will have a significant fiscal impact on the Judiciary. In the past three (3) fiscal years, the following number of petitions for expungement were filed in the District Court and the circuit courts:

	District Court	Circuit Court
Fiscal Year 2019	74,508	10,951
Fiscal Year 2020	55,105	8,642
Fiscal Year 2021	39,061	5,940

**FY2020 and FY2021 numbers are impacted by the COVID-19 pandemic and are not an accurate depiction of a typical year of data.*

The Maryland Judiciary is currently in the process of implementing a single Judiciary-wide integrated case management system that will be used by all the courts in the

Judiciary. Maryland Electronic Courts (MDEC), which has been implemented in 92% of the jurisdictions; however, the bulk of the process still requires the clerks to do manual processing. The average time to complete expungement of an entire case in the District Court or circuit courts has been determined to be 1.5 hours. The average time to complete the more complex process of expunging a single charge from a case with multiple charges, which requires reading through all documents and docket entries, has been determined to be 3 hours for District Court and 5 hours for circuit court due to the size of case files. Time estimates could increase depending on circumstances such as the complexity of the case, the difficulty in locating files, and the number of custodians. The time to complete the expungement process is not currently available for the appellate courts.

The expungement process is a long, labor-intensive, and expensive process involving the determination of eligibility; the use of multiple NCR forms; postage costs for mailing petitions and orders to State's Attorneys, law enforcement agencies, defendants, defendant's attorneys; copying expenses; holding periods for pending expungements, physical redaction, and storage costs for the expunged records for three years. Court records that need to be redacted include all official records maintained by the clerk or other personnel pertaining to any criminal action or proceeding for expungement, including indices, docket entries, charging documents, pleadings, orders, memoranda, assignment schedules, disposition sheets, transcriptions of proceedings, electronic recordings, orders, judgments, exhibits, and decrees. Some circuit courts do not have indexes of old cases. Searching for marijuana charges would involve manually going through docket books and microfilm to review each case to determine if a charge exists. In cases where there are multiple charges in a case but only one charge needs to be expunged, clerks would need to read through all aspects of the court record to properly redact references to the expungable charge. The appellate court process would be similar to the circuit court process, with a significant number of paper records needing to be researched. In addition, the bill does not cover the removal of "published" opinions of a court. The expungement process includes sending the order to all custodians of the record, instructing them to expunge any related records in their custody and to return the Certificate of Compliance to the court. The names of every agency that may have records related to the case in their possession are not always apparent, which would require the clerk to review the entire case file to ensure all custodians receive the expungement order. For example, a court commissioner can be a custodian of a record if the defendant applies for Public Defender eligibility determination. With respect to case records that have been transferred to the Maryland State Archives for permanent storage, unless the legislation specifically directs the Archives to redact the expunged information and return the Certificate of Compliance to the court, there is no guarantee the expungement has been completed.

The Judiciary maintains it is not able to effectively expunge one charge in a unit. There is no functionality currently within CaseSearch to remove records at the charge level without displaying a space for a missing charge(s). When a person is charged with multiple offenses, the charges are numbered and reported to the Criminal Justice Information System (CJIS) in the order presented on the charging document. For

instance, there are three charges, and charge 2 is expunged, the system will still reflect charges 1 and 3. They are not and cannot be renumbered because the case information reported to CJIS must align with the same charge numbers initially reported. A missing numbered charge may raise questions and red flags, thereby, nullifying the purpose of the expungement.

The clerk would need to review the file, page by page to remove any information pertaining to the expunged charge. Charge information is repeated throughout the case many times and the charging document outlines what the alleged events are that occurred. There may not be a clear way to obliterate all information in a charging document related to a specific charge. In addition, there is currently no functionality to build programmatic relationships between CaseSearch and the five case management systems that process criminal information to remove any reference to the existence of specific charges in any of the various components within those systems as required by the proposed legislation. As explained in the current and prior legislative sessions, the Judiciary anticipates that the implementation of CaseSearch Version 2 will provide the needed functionality to enable the removal of case information at a more granular level such as individual charges and will parallel the final rollout of MDEC. **The CaseSearch rebuild is estimated to cost at a minimum \$1.14 million and cannot be implemented until all District and Circuit Courts are fully implemented and functional on MDEC.**

This bill has the potential to cause an overwhelming initial impact for the court. The removal of the 3-year waiting period for acquittal, nolle prosequi, and dismissal dispositions, and the addition of invalidated warrants, **all** misdemeanor and **certain** felony convictions would result in an increase in petitions from anyone who was not previously eligible from the conception of District Court (1971) and farther back for the circuit courts. Expungement clinics, educational workshops, and other self-help resources have heightened individuals' awareness of the new expungement laws and have contributed to the ongoing increase in petitions. A further increase to the trial courts' caseloads, and the additional hearings that will be necessary if there is an objection to a petition for expungement would result in additional clerical and court time will cause costs rise due to the increase in the number of expungements. Additional clerks will be needed to complete the workload created by this bill.

The following data illustrates the past three fiscal years cases which contain a single misdemeanor violation, cases which contain multiple charges but only misdemeanors, and cases which contain multiple charges and contain both misdemeanors and felonies. The provided data excludes any crimes of violence listed under CR § 14-101, crimes which require a defendant to register on the sex offender registry under Title 11, Subtitle 7 of the Criminal Procedure Article, hate crimes listed under Title 10, Subtitle 3 of the Criminal Law Article, and crimes of animal cruelty listed under Title 10 Subtitle 6 of the Criminal Law Article.

The Judiciary has included data which includes warrants dismissed, quashed, and/or recalled by a judge prior to being served. The use of the term "invalidated" was used extensively in years past but is no longer common practice. The common practice is for

the judge to review the outstanding warrant. If the warrant is for a violation of probation, the judge will determine if it should remain active. If the warrant is for a failure to appear bench warrant or an arrest warrant, copies will be sent to the State's Attorney Office to determine if the warrant should remain active or for consideration to nolle prosequi the case. This fiscal note assumes that SB 710 and the term "invalidated warrant" does not apply to bench warrants.

District Court Statistics – Fiscal Year 2019-2021*

Fiscal Year	Number of cases with misdemeanor charge (with exclusions)**	Number of cases with at least one felony charge (with exclusions)**	Totals:
2019	87,826	14,492	102,318
2020	67,956	11,841	79,797
2021	65,746	12,147	77,893

**FY2020 and FY2021 numbers are impacted by the COVID-19 pandemic and are not an accurate depiction of a typical year of data. **excludes charges for crimes of violence, animal cruelty, hate crimes, and charges that result in registering as a sex offender.*

Circuit Courts Statistics – Fiscal Year 2019-2021:

Fiscal Year	Number of cases with misdemeanor charge (with exclusions)**	Number of cases with at least one felony charge (with exclusions)**	Totals:
2019	16,244	11,016	27,260
2020	12,148	7,680	19,828
2021	7,486	6,217	13,703

**FY2020 and FY2021 numbers are impacted by the COVID-19 pandemic and are not an accurate depiction of a typical year of data. **excludes cases with charges for crimes of violence, animal cruelty, hate crimes, and charges that result in registering as a sex offender.*

For illustrative purposes, using the data from FY 2019, which is the last year not impacted by the COVID-19 pandemic, if 70% of the defendants who would be eligible to file for an expungement actually file, a minimum of 89 new positions would be needed in the District Court; another 24 new positions would be needed in the circuit courts to handle the increased workload. The total of 113 new positions will result in approximately \$7,783,398 in additional personnel costs and other operational expenses in the first full fiscal year.

	District Court	Circuit Court
Average Number of Eligible Cases for Expungement:	102,318	27,260
Average Number of Eligible Cases* 70%(.70)	71,623	19,082
Hours to Complete Expungement	1.5	1.5
70% of Eligible Cases * Hours to Complete	107434.5	28,623
Hours to Complete Expungement of Eligible Cases/Hours Available	89.13	23.87
Number of Clerks Needed	89	24

The estimated cost to implement the programming changes will require 1,190.4 hours at an approximate cost of \$145,064.64.

Due to the new categories of eligible records, related time periods, records handling, and courtroom procedures, extensive changes to procedures will be required in addition to judicial and clerical training and retraining.

SB0710 Initial Cost of Implementation	
Case Search 2.0	\$1,140,000.00
Clerks (1 st Full Year)	\$7,783,398.00
Programming, including Reports	\$145,064.64
Brochure/Forms	\$6,000.00
TOTAL	\$9,074,462.64

This bill will have a significant fiscal and operational impact on the Judiciary.

cc. Hon. Obie Patterson
Judicial Council
Legislative Committee
Kelley O'Connor