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## **POSITION ON PROPOSED LEGISLATION**

**BILL: SB 0138**

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

**POSITION: Favorable**

**DATE: 1/28/2022**

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 138.

I have worked with thousands of clients in the past 15 years filing expungement petitions and advising them of the applicable law. During this time, the Office and myself have advocated for change to allow our clients to move forward and not be burdened with the stigma of a criminal record - especially a record that lists favorable dispositions. A criminal record is not just what is on a person's RAP sheet but it must also be considered what is available on Maryland Judiciary Case Search and the information that has been obtained and disseminated by private databases.

Last year, the Maryland General Assembly took a huge step forward in providing assistance to thousands of Maryland citizens. SB0201 became law which allowed 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.

For some clients, the past remains in the past but for many clients it will only resurface when they are looking for employment or advancement in their current jobs; looking for better housing opportunities; or looking to further their education. The time frame to file and be granted a favorable disposition can take months depending on the jurisdiction. 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 dispositions 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.

Private databases are using publicly accessible information that supports a 2+ billion dollar industry, according to an article published by IBIS World in November 2020. However, there is no regulation of these private databases. They can continue to provide information about expunged cases or cases that will be expunged.

This Session, SB 138 will close the additional loopholes that were not addressed in the previous legislation.

1. It will include the two additional favorable dispositions – probation before judgements and STETs.
2. It will retroactively start the automatic expungements of all these favorable dispositions to October 1, 2018.

The Maryland Office of the Public Defender strongly supports these additional changes to the existing automatic expungement law. It is vital that our clients whose cases have resulted in a favorable disposition are not burdened by employers' and other entities' access to these records. It makes no sense to require a court-filing when these dispositions would otherwise be eligible.

For these reasons, the Maryland Office of the Public Defender strongly urges this Committee to issue a favorable report on Senate Bill 138.

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

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