

HB-1442 -Support-With-Sponsor-Amendments

Criminal Procedure-Expungement of Records-Expansion

Testimony of Michael Stone, Director of Pro Bono Programs
Homeless Persons Representation Project, Inc.
Tuesday, March 15, 2022
House Judiciary Committee

Homeless Persons Representation Project, Inc. (HPRP) is a non-profit legal services provider that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP has provided free criminal record expungement services to thousands of low-income Marylanders.

HB 1442 will expand access to expungement for vulnerable Marylanders.

The Homeless Persons Representation Project strongly supports HB 1442. HB 1442 will expand the types of misdemeanor convictions eligible for expungement to include additional convictions that create barriers to housing for individuals that have long ago completed their sentences yet still suffer outsized consequences for decades old minor convictions. Under current law, expungement for misdemeanor convictions is limited to an arbitrary and delineated list of crimes. The limited scope of the current law does not incentivize reform after conviction as many minor misdemeanor convictions remain ineligible for expungement, regardless of the age of the conviction or the subsequent good behavior of the petitioner.

HB 1442 also reduces the waiting periods that must be met before a person can file to expunge favorable dispositions and convictions. Maryland's waiting periods for expungement are now an outlier compared to other states. Under current law, Maryland requires a person to wait ten (10) or fifteen (15) years after resolution of all sentence requirements to obtain expungement of limited convictions. These are the longest waiting periods in the United States. According to a recent national survey conducted by the Collateral Consequences Resource Center (CCRC), a near majority of the "44 states that authorize clearing of misdemeanor convictions...have waiting periods of 3 years or less (19 states) and the vast majority have waiting periods of 5 years or less (35 states)."¹ Many states have "shortened waiting periods in recognition of the constructive role that record clearance plays in facilitating reentry and rehabilitation[.]"² HB 1442 brings Maryland in line with other states by reducing wait times for expungement of misdemeanor convictions from the longest in the nation at 10 years after completion of sentence to the current trend of 3 years. Similarly, HB 1442 also reduces the punitive impact of long waiting periods for expungement of non-convictions. For example, current law requires a 3-year waiting

¹ Collateral Consequences Resource Center, *Waiting for Relief: A National Survey of Waiting Periods for Record Clearing*, February 23, 2022, available at <https://ccresourcecenter.org/2022/02/23/waiting-for-relief-a-national-survey-of-waiting-periods-for-record-clearing/>.

² *Id.*



period prior to expungement of a case on the stet docket.³ HB 1442 reduces that wait time to 1 year, consistent with the length of time it takes for a statted case to effectively close.

Criminal records disproportionately impact people experiencing homelessness and communities of color.

The burden of criminal records falls disproportionately on Black and brown communities, and people experiencing homelessness. The number of Americans caught in the revolving door between homelessness and the criminal justice system are in the tens of thousands.⁴ Roughly 48,000 people exit jail/prison into homelessness each year.⁵ Formerly incarcerated people are almost 10 times more likely to be homeless, with Black women experiencing the highest rate of homelessness.⁶

In Baltimore City 48% of homeless adults have at least 1 criminal charge⁷ and, like national data, Black individuals are disproportionately impacted. While Black individuals represent 64% of Baltimore City residents, they comprise 82% of homeless individuals with criminal charges.⁸ Criminal records both cause homelessness and prevent individuals from ending their homelessness. The faster criminal records can be expunged the faster individuals can end their homelessness.

HB 1442 will help homeless individuals gain greater access to housing and employment.

Employers and landlords often discriminate against anyone with a criminal record regardless of its content, age or direct relationship to employment or housing. A 2015 national report on criminal record barriers to federally subsidized housing found that housing providers have unreasonably long lookback periods, 10 and even 20 years, for a wide variety of crimes.⁹ Such practices exclude far more people than necessary to preserve public safety and result in the denial of housing to those with minimal criminal records including records of minor convictions. Expanding the types of misdemeanor convictions eligible for expungement and reducing waiting periods will increase access of individuals experiencing homelessness to the critical permanent housing resources and employment opportunities needed to end their homelessness.

Please support HB 1442 and issue a favorable report.

If you have any questions, please contact Michael Stone, Director of Pro Bono Programs, Homeless Persons Representation Project at 443-884-5240; hprpprobono@hprplaw.org

³ A criminal case is on the stet docket when the court “indefinitely postpones the charge[.]” and after one year requires a finding of good cause by court to reschedule for trial. See Md. Rule 4-248(a).

⁴ U.S. Interagency Council on Homelessness, Reduce Criminal Justice Involvement, August 15, 2018, available at <https://www.usich.gov/solutions/criminal-justice>.

⁵ Id.

⁶ Prison Policy Initiative, Nowhere to Go: Homelessness among formerly incarcerated people, August 2018, available at <https://www.prisonpolicy.org/reports/housing.html>.

⁷ Journey to Jobs: Understanding and Eliminating Barriers Imposed on Homeless Jobseekers, available at <https://www.journeyhomebaltimore.org/journey-to-jobs/>

⁸ Id.

⁹ Sargent Shriver National Center on Poverty Law, When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing, February 2015, available at <http://povertylaw.org/sites/default/files/images/publications/WDMD-final.pdf>

