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**TO:** The Honorable Will Smith Jr.  
Chair, Judicial Proceedings Committee

**FROM:** Hannibal G. Williams II Kemerer  
Chief Counsel, Legislative Affairs, Office of the Attorney General

**RE:** SB 173- Automatic Expungement – Clarification (**Support**)

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The Office of the Attorney General supports Senate Bill 173 and urges a favorable report. Vice Chair Waldstreicher's bill seeks to clarify the automatic expungement provision in Criminal Procedure § 10-105.1, which was created in 2021 to provide for automatic expungement after 3 years of certain cases where all charges resulted in acquittal, nolle prosequi, or dismissal. The original language was ambiguous based on sentence order and was susceptible to two possible interpretations: (1) that it applies only to cannabis offenses and must-appear vehicular offenses; or (2) that it applies to all crimes except non-must-appear vehicular offenses, and also applies to cannabis civil offenses. This bill would rephrase § 10-105.1 so that the second, much broader interpretation is more clearly conveyed. This modification appears consistent with the General Assembly's intent in 2021.<sup>1</sup>

In most cases, individuals should be entitled to expungement of criminal charges that never resulted in conviction. Senate Bill 173 will ensure that courts err on the side of granting such expungements in a manner that is neither cramped nor overly restrictive.

For the foregoing reasons the Office of the Attorney General urges a favorable report on Senate Bill 173.

cc: Members of the Committee

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<sup>1</sup> See, e.g., Fiscal and Policy Note for S.B. 201, 2021 Legis. Sess, 442nd Gen. Assemb. (Md. 2021), available online at: [https://mgaleg.maryland.gov/2021RS/fnotes/bil\\_0001/sb0201.pdf](https://mgaleg.maryland.gov/2021RS/fnotes/bil_0001/sb0201.pdf); *But see In re Vincent S.*, 255 Md. App. 163, 179 n.9 (2022) (adopting a narrower interpretation of § 10-105.1).

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or [sbrantley@oag.state.md.us](mailto:sbrantley@oag.state.md.us)