

SB505_FAV_ACLUMD.pdf

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Position: FAV



**Testimony for the Senate Judicial Proceedings Committee
March 09, 2023**

SB 505 Criminal Procedure - Expungement – Convictions

FAVORABLE

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The ACLU of Maryland urges a favorable report on SB 505, which would expand the eligibility of convictions that qualify for expungement.

Studies show that employment opportunities can reduce recidivism rates.¹ Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing.

The existence of a criminal record can and does create a barrier to employment for many Marylanders. More than 80 percent of U.S. employers perform criminal background checks on prospective employees.² Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including a barber license,³ a cosmetology license,⁴ an electrician license,⁵ professional engineer license,⁶ a landscape architect license,⁷ an interior designer certificate,⁸ and countless others.

Criminal convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information

¹ See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

² Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management, Alexandria, Va.: Society for Human Resource Management, 2006.*

³ Md. Business Occupations and Professions, Code Ann. § 4-314

⁴ Md. Business Occupations and Professions, Code Ann. § 5-314

⁵ Md. Business Occupations and Professions, Code Ann. § 6-316.

⁶ Md. Business Occupations and Professions, Code Ann. § 14-317.

⁷ Md. Business Occupations and Professions, Code Ann. § 9-310.

⁸ Md. Business Occupations and Professions, Code Ann. § 8-310.

as part of the admissions process.⁹

Criminal convictions also hinder an individual's access to stable housing and a range of public benefits. Even a misdemeanor conviction record may bar individuals from residing at certain homes,¹⁰ and exclude individuals from low-income utility payment plans¹¹ as well as food stamps.¹²

SB 505 will allow individuals with certain criminal convictions to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy. By increasing access to this broad range of services, SB 505 can reasonably be expected to generate greater socioeconomic stability and productivity in Maryland's communities.

Criminal convictions disparately disadvantage individuals, families, and communities of color.

The over-criminalization of communities of color – due in large part to the “war on drugs”—has produced the startling result that one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latino men, and one in seventeen White men.¹³ In addition to facing higher imprisonment rates, racial minorities, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their White counterparts.¹⁴

With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from criminal convictions. The exclusion from the job market, stable housing, and countless other crucial services perpetuates the cycle of imprisonment plaguing communities of color—without gainful employment and stable housing, individuals are forced to return to livelihoods of criminality.

A person should not be continually defined nor punished for their worst day, rather they should be allowed to rechart their future and participate in the collective prosperity and security of the community. SB 505 grants that opportunity and nudges the door open a little further to a new path of opportunities and self-sufficiency.

Thus, for the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 505.

⁹ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

¹⁰ *See for example*, COMAR 35.04.01.04.

¹¹ COMAR 20.31.01.08.

¹² Md. Human Services Code Ann. § 5-601.

¹³ Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (HUFFINGTON POST, Oct. 4, 2013).

¹⁴ *Id.*

SB 0505 - Favorable.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

TESTIMONY IN SUPPORT OF SB 505: Criminal Procedure - Expungement – Convictions

****FAVORABLE****

March 9, 2023

TO: Sen. William C. Smith, Jr., Chair, Sen. Jeff Waldstreicher, Vice Chair and the members of the Senate Judicial Proceedings Committee

FROM: Rev. Kenneth O. Phelps, Jr., Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: March 9, 2023

The Episcopal Church, at its 78th Convention in 2015, passed sweeping resolutions aimed at ending mass incarceration practices and mitigating solutions for the damages inflicted upon certain communities by both arrest and sentencing policies and practices.

The Episcopal Church at large and the Diocese of Maryland in particular has embraced the concept of reparations, a concept not limited to financial considerations but to a leveling of the playing field across a broad spectrum of issues, including criminal justice. Serious charges, even if they were dropped or resulted in a not-guilty verdict, hinder people who are attempting to get jobs, find housing or seek education, often because the information is easily accessible.

We believe that increasing the number and type of crimes that can be expunged and shortening the prescribed waiting periods- in some cases to immediate – will be another small step in repairing (reparations) the damage done by a decades long policy of mass incarcerations.

In the hopes that we can expand the number of expungable offenses in the future, the Diocese of Maryland requests a favorable report.

SB 505 - Expungement DUI - Testimony.pdf

Uploaded by: C. Athony Muse

Position: FWA



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY by Senator C. Anthony Muse

SB 505: *Criminal Procedure – Expungement – Convictions*

Good afternoon, Mr. Chairman, Vice Chairman and members of the Senate Judicial Proceedings Committee Senate Bill 505 as **amended** would expand the eligibility of convictions that qualify for expungement to include *driving under the influence or while impaired*. And a petition for expungement under this section may not be filed earlier than 10 years after the person satisfies the sentence imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

As you know criminal records can prevent individuals from employment, housing, and educational opportunities. More than 85% of employers perform background checks on all job applicants and deny employment to many citizens based on a record. In fact, a past criminal conviction of any sort reduces job offers by half. Not to mention, anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged.

In closing, many of us are not the same person that we were 10 years ago, and we should not have limited because of the past mistake. SB 505 as *amended* would allow rehabilitated persons who are eligible to have their records expunged to advance in life; whether its by way of employment, housing or furthering their education.

SB 505 - HB 660 Amendment.pdf

Uploaded by: C. Athony Muse

Position: FWA



SB0505/653825/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

07 MAR 23
14:05:16

BY: Senator Muse

(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 505

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “**Convictions**” insert “**for Driving Under the Influence of or While Impaired by Alcohol, a Drug, or a Controlled Dangerous Substance**”; and strike beginning with “certain” in line 3 down through “convictions” in line 4 and substitute “convictions for driving under the influence of or impaired by alcohol, a drug, or a controlled dangerous substance”.

AMENDMENT NO. 2

On page 3, in lines 16 and 17, in each instance, strike the bracket; and strike in their entirety lines 18 through 21, inclusive.

SB 505 Expungement Art Klunk.pdf

Uploaded by: C. Athony Muse

Position: FWA

In Support of SB 505

In November of 2020, my son was charged with a DUI by the Maryland State Transportation Police. He is a career Firefighter/EMT. He is a graduate of Towson University with an otherwise good driving record. He was not convicted but instead received a Probation Before Judgement from the Anne Arundel County court system and his charge was reduced to DWI. While he was waiting for his court case, his job and career path drastically changed. He was immediately transferred from his assigned fire station to a dayshift only basic EMT unit. In addition, he was required to appear before the chief of the fire department where he was suspended without pay for four work shifts (96hrs). As an EMT certified by the state, my son also had to report to MIEMMS and was put on probation with them for one year. This meant that he was still able to work as a firefighter/EMT, but he was subject to random drug/alcohol testing each month. He was returned to his original unit, but, during random shifts, he and his whole unit would drive to whichever testing center was assigned for that day. The unit would wait for him during his testing. He is currently completing paramedic school. As he applies to sit for the national registry exam, he continues to be required to provide court documents explaining the incident and how his eligibility to serve remains intact. I tell you this to describe the impact his offense and subsequent punishment has had on my son and his career. He has never taken this lightly. He sees the effects of drunk driving nearly every shift that he works, and he is embarrassed and in disbelief of his own poor judgement.

As I observed my son's interactions with the judicial system, I became aware that in Maryland there is no opportunity to apply for expungement of this record. I believe that in our state, such a blanket policy encompassing all the nuances of DUI and DWI charges is unfairly weighted against citizens who have received these charges as a first-time offense, especially

where there is no personal injury or property damage. This includes those, like my son, who were given a PBJ from the courts. This means that Maryland citizens who otherwise had good driving records and who had never been in trouble in their lives, like my son, are forced to have this cloud over their heads for the rest of their lives. Surely this will cause major problems and hurdles for Maryland citizens every time they apply for a job or promotion.

For any Marylander to have this hanging over their head simply because they live in Maryland is unwarranted. This could negatively affect their career paths and their future. Their record will always be tarnished and the lapse in judgement they made years ago will always be an issue.

I would like to propose a stepped level of punishment for the court to have available for this type of incident. It includes opportunities for application for expungement. There is room for judicial input as well.

My suggestions are the following:

- First-time offense with a DWI, where there is no injury or property damage and where PBJ is given, there would be expungement after a 5-year period
- First-time offense with a DUI, where there is no injury or property damage and where PBJ is given, there would be expungement after a 5-8 year period which would be determined by the court
- Second time offenses during the period prior to expungement would result in a permanent record without opportunity for expungement

- At the time of a first offense, if there is personal injury or property damage, the court may decide whether future expungement would be available for the offender

The 5- or 5-8-year waiting period is to help ensure the individual can be trusted NOT to do this again. Five to eight years is a long time.

My son's experience was the spark that got me going about fighting the state policy against expungement for these offenses. I would like to see common sense brought into the picture. For my son and the citizens of Maryland, please change the law allowing them to get on with their lives in a responsible way. For this reason, I am urging you to vote Favorably for SB 505.

Thank you for your time and attention to my request.

Art Klunk
8421 Thornton Road
Lutherville, MD 21093
443 841-9124
ajzo8421@verizon.net

Expungement Convictions - SB505.pdf

Uploaded by: Psalms Rojas

Position: FWA



MARIAN HOUSE

Women Moving from Dependence to Independence

TESTIMONY IN SUPPORT OF SB505
Criminal Procedure – Expungement – Convictions

March 8, 2023

Senator William C. Smith
2 East
Miller Senate Office Building
Annapolis, MD 21401

Testimony of Marian House in Support of SB505

Dear Chairman Smith, Vice-Chair Waldstreicher, and members of the Judiciary Committee,

Marian House is a holistic, healing community for women and their children who are in need of housing and support services. Marian House provides comprehensive support services to assist women with experiences of trauma, including poverty, substance abuse, and incarceration. **I write to urge you to support Senate Bill 505 - Criminal Procedure – Expungement – Convictions with its amendments.**

Over forty years ago, Marian House was opened to provide reentry supports for women leaving incarceration as Sisters and laywomen recognized that lack of support contributed to recidivism rates. Today, we have also expanded to serve women with histories of trauma including homelessness, incarceration, neglect, substance abuse and mental health needs. Since our opening, we have assisted women who have been victims of crime in reinventing and rebuilding themselves through services such as: counseling, substance abuse treatment, job training and providing both long and short-term housing. All the women we have served have overcome obstacles on their journeys to become contributing members of society in the Baltimore area.

It is no secret that obtaining gainful employment and housing is contingent on a background check. Therefore, it is no surprise that individuals with history of convictions and criminal justice involvements face great barriers to achieving and maintaining a stable life after their release. By passing SB505, the State recognizes that no one is the sum of their mistakes and that everyone is deserving of a second chance. In Financial Year 22, Marian House served twenty-one women who had lived/resided in jail, prison, or a juvenile detention facility. Through these women, we have seen firsthand that they struggle to build confidence and independence as they have faced many barriers to employment and housing due to their former criminal records. By supporting SB505, the 1.5 million Marylanders, including those we serve at Marian House, will be able to expunge their records sooner and have access to the housing and employment they desperately need.

On behalf of the women we serve at Marian House, I respectfully urge you to take the call to action in **SUPPORT of SB505.**

Thank you for your support,

Katie Allston, LCSW-C
President and C.E.O.

23 legis md bill testimony sen expunge pdf.pdf

Uploaded by: Kurt Erickson

Position: UNF

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Patrick Burke, Chairman
Washington DC Police Association
Christopher Harnish, Vice Chairman
Assistant Attorney General-Prince Georges County Police Dept
Linda Whitlock, Secretary
Tommy Sauer, Treasurer
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HAAAB
Chief David Hurdin
Montgomery Washington Report Authority Police
Linda Hurdin
Police Academy
Chenoweth Police Safety Council
Christopher Krasinski
Foundation for Advancing Alcohol Responsibility
Brianna Lacey
Julie MacLellan
Virginia Safety Association
Brenda Mearns
Susan Lee, LLC
John O'Donnell
Washington Area Non-Automobile Driver Association
Marianne Pothier
National Council on Alcoholism and Addictions
Roberta Ruzarski
George Washington University Hospital
National Council
Office of the Attorney General of the District of Columbia
Sergeant Jerry Theise
Montgomery Police Department (D.C.)
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Unklesand Management
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District of Columbia Office of the Chief Medical Examiner
T. William Towner, II
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WASHINGTON REGIONAL ALCOHOL PROGRAM

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March 9, 2023

Members of the Judicial Proceedings Committee
Maryland Senate
Annapolis, Maryland

Re.: Opposition to "Criminal Procedure – Expungement – Convictions," Senate Bill 505, Senator Muse (D-Prince George's County)

"Alcohol-impaired drivers involved in fatal crashes were 4 times more likely to have prior DWI convictions than were drivers with no alcohol (8% and 2%, respectively)."

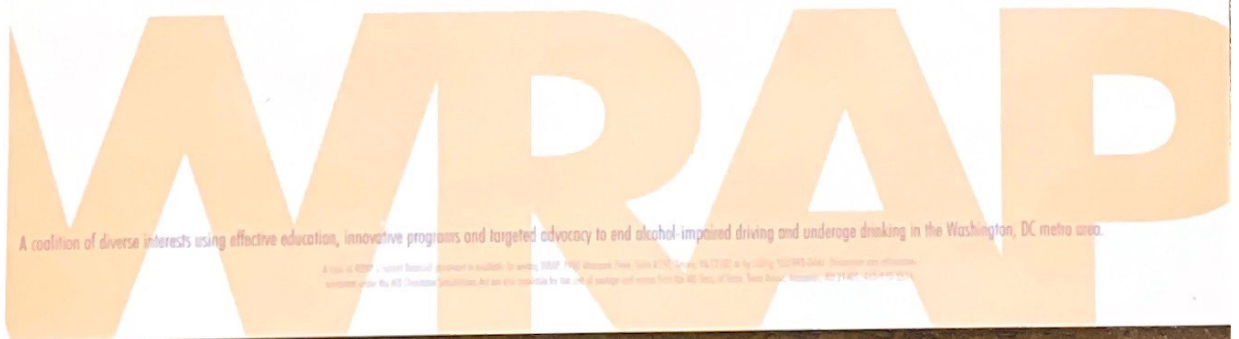
- National Highway Traffic Safety Administration (NHTSA),
"Alcohol-Impaired Driving" Traffic Safety Facts, April 2022

Dear Senators:

On behalf of the Maryland nonprofit Washington Regional Alcohol Program's (WRAP) Board of Directors, staff, volunteers and the more than six-million Maryland residents we serve in the fight against drunk driving and underage drinking (including having served as project director of both Maryland's Checkpoint Strikeforce campaign and "Maryland Remembers" ceremony), I wanted to formally communicate to you **WRAP's opposition to Senate Bill 505, "Criminal Procedure – Expungement – Convictions"** (Senator C. Anthony Muse, D-Prince George's County).

Succinctly, Senate Bill 505 seeks to allow persons convicted of driving under the influence of alcohol, driving while impaired by alcohol or driving while impaired by drugs or controlled dangerous substances (Maryland Transportation Section 21-902 [a][b][c] & [d]) to file a petition for the expungement (from court or police records) of said offense.

(over)



A coalition of diverse interests using effective education, innovative programs and targeted advocacy to end alcohol-impaired driving and underage drinking in the Washington, DC metro area.

WRAP's concern here is that repeat drunk drivers are overrepresented in fatal traffic crashes where alcohol was a factor. Such repeat offenders are categorized as "high risk" drunk drivers by the National Highway Traffic Safety Administration with federal data showing that drunk drivers involved in fatal crashes are "four-times more likely to have prior DWI convictions than were drivers with no alcohol" in their systems.

Due to this bill's likely impact on the accurate adjudication of impaired driving offenders including subjecting the same to the appropriate sanctions based upon numerous outcomes including an accurate number of previous convictions for said same offense, WRAP opposes Senate Bill 505 and urges your consideration of unfavorably reporting said legislation.

□□□□

Thank you, in advance, for your consideration. I may be directly reached with any questions at either 703-893-0461 or at kurt@wrap.org.

Cordially,



Kurt Gregory Erickson
President

sb505.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

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 505
Criminal Procedure – Expungement – Convictions
DATE: February 8, 2023
(3/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 505. This legislation authorizes a person to file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if the person is convicted of: §21-902 of the Transportation Article; §3-202 of the Criminal Law Article, if the crime did not involve domestic violence and the person has no other convictions; §3-403 of the Criminal Law Article; or §3-405 of the Criminal Law Article.

The Judiciary recognizes that setting the scope of expungable offenses is a legislative prerogative, but the decision impacts the Judiciary’s function insofar as possible expungement of more offenses—especially crimes of violence—deprives judges of relevant information that could be used to fashion proper sentences should a defendant incur a subsequent conviction. If expunged, this information would not be available to the sentencing judge. It is hard to understand how the court can make an informed decision without the benefit of access to a defendant’s history of any prior violent offenses. This would rob the courts of the ability to strike the optimal balance between punishment, deterrence and rehabilitation in future sentencing decisions, and public safety may be put at an increased risk as a result.

Moreover, certain offenses included in this bill -- armed carjacking, armed robbery, and first-degree assault – carry enhanced penalties for subsequent offenders. Specifically, pursuant to Criminal Law §14-101 individuals convicted of these “crimes of violence” are subject to increased penalties as second, third, and fourth offenders. It is hard to understand how the Judiciary could fulfill its obligation under this section without access to the prior conviction information. Additionally, if the weapon used during the armed robbery, armed carjacking, or first-degree assault is a firearm, an individual is often also charged with Use of a Firearm in the Commission of Violence. If so convicted, would the court expunge the armed robbery, armed carjacking, or first degree assault conviction but allow the Use of a Firearm in the Commission of that Crime of Violence to remain? How

would the court remove the underlying crime of violence information contained within that charge? It is unclear and logistically impossible.

In addition, there is no ability for the courts to consistently and accurately determine whether a prior crime involved domestic violence, as specified in the bill at Criminal Procedure § 10-110(a)(2)(iv). Various criminal offenses may involve domestic violence and the Judiciary has no way to determine that from the charge itself. Further, the crimes outlined in the bill typically are charged with other crimes that are not eligible for expungement which would make it impossible to expunge from charging documents, indictment, police records and the like.

cc. Hon. C. Anthony Muse
Judicial Council
Legislative Committee
Kelley O'Connor

MCPA-MSA_SB 505 _Expungement - Convictions-OPPOSE.

Uploaded by: Natasha Mehu

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: Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 9, 2022

RE: **SB 505 Criminal Procedure – Expungement – Convictions**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** SB 505. This bill authorizes a person to file an expungement for felony convictions.

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 affecting public safety.

For these reasons, MCPA and MSA **OPPOSE SB 505** and urge an **UNFAVORABLE** Committee report.

SB 505 Criminal Procedure Expungement Convictions.

Uploaded by: Scott Shellenberger

Position: UNF

Bill Number: SB 505
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
IN OPPOSITION TO SENATE BILL 505
CRIMINAL PROCEDURE- EXPUNGEMENT- CONVICTIONS

The Maryland States Attorneys Association is opposed to Senate Bill 505 Criminal Procedure-Expungement-Convictions as it goes well beyond the currently existing laws which permit expungement of some convictions.

Criminal Law Article § 10-110 was enacted as a part of the Justice Reinvestment Act in 2016 to permit expungement of guilty findings for a long list of crimes set forth in the statute. This was accomplished after a long, hard-working process by the Legislature in going through every crime for consideration to permit expungement. The Legislature understandably concluded that the availability of expungement should not extend to sex offenses and crimes of violence, for example.

This Bill would extend the availability of expungement to DUI's, First Degree Assaults, Armed Robbery and Carjacking. This is well beyond that which is reasonable. It is quite common that drunk drivers are not always caught and repeat drunk drivers are often caught with lengthy time periods between their offenses. This bill may prevent the public and a judge from knowing about the fact that the person has done this before.

It is even more distressing that, with this bill, a person can wipe clean from their record the fact that they have shot someone, pistol whipped another to rob them, or violently ripped a person from their car in order to take the car. Individuals convicted of such actions should be held to answer for their actions. Further, the public has a right to know that an individual has committed such an offense.

I request an unfavorable report.

SB0505 - MVA - Expungement - Convictions - LOI_FIN

Uploaded by: Patricia Westervelt

Position: INFO

March 9, 2023

The Honorable William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis MD 21401

RE: Letter of Information – Senate Bill 505 – Criminal Procedure - Expungement - Convictions

Dear Chair Smith and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 505 but offers the following information for the Committee's consideration.

Senate Bill 505 makes alterations to an individual's ability to pursue expungement of certain misdemeanor and felony records. Among those offenses in the proposed legislation is a violation of § 21-902 of the Transportation Article, which refers to driving under the influence of alcohol.

The MDOT Motor Vehicle Administration (MVA) maintains driving records that include notations of convictions for certain offenses. The maintenance and expungement of these driving records are controlled by the Transportation Article and by the Public Information Act.

Given current law, MDOT does interpret Senate Bill 505 as applying to records maintained by MVA; however, should that be the intent, this could potentially establish a conflict in its lack of clarity on scope of records. The MVA must maintain appropriate record keeping for drunk driving offenses as a component of its interstate driver's compact and for federal purposes relating to commercial driver's licenses.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating Senate Bill 505.

Respectfully submitted,

Christine E. Nizer
Administrator
Maryland Motor Vehicle Administration
410-787-7830

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090