

SB544_.pdf

Uploaded by: Alicia Pereschuk

Position: FAV

Dear Senator Will Smith and 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. I am a resident of District #43A. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Alicia Pereschuk
321 W 28th St
Baltimore MD 21211
Showing Up for Racial Justice Baltimore

A Juberg Favorable SB544.pdf

Uploaded by: Arielle Juberg

Position: FAV

Dear Senator Smith and Members of the Senate Judicial Proceedings Committee,

I am a resident of District 8. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement. 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 working in collaboration with Out for Justice.



I am a volunteer with local organizations that provide basic necessities to our neighbors, including hot meals, clothing, and infant diapers. It is clear that many Marylanders today struggle to meet their basic needs, often because of barriers erected by our systems. One of these barriers is our criminal record procedure.

Here in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. Anything that occurs after an arrest is documented on an individual's criminal record and will remain publicly visible via [Maryland Case Search](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing.

It is reported that [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue. I am encouraging you to vote in **support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,

Arielle Juberg
3411 Upton Road
Baltimore, MD 21234

Nonconviction expungements.pdf

Uploaded by: Bonnie Weissberg

Position: FAV



March 8, 2023

Dear Senators Muse, McCray, and Brooks and the 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. I am a resident of District 41. I am testifying in support of **SB544** Criminal Procedure – Non-Convictions Expungement.

In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of **SB544**, Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Bonnie Weissberg
1704 Mt. Washington Court, Apt. H
Baltimore, MD 21209
Showing Up for Racial Justice Baltimore

SB 544 - Expungement - Testimony.pdf

Uploaded by: C. Athony Muse

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY by Senator C. Anthony Muse
SB 544: Criminal Procedure - Expungement of Records - Waiting Period

TO: Hon. William C. Smith and Members of the Senate Judicial Proceedings Committee

FROM: Senator Anthony C. Muse

DATE: March 9th, 2023

Greetings Colleagues, Senate Bill 544 is a means of removing acquittals, dismissals, and nolle prosequis from public view. In 2021, this committee passed legislation to allow this same section of non-convictions to be automatically eligible for expungement after the three-year statute of limitations. Senate Bill 544 is a continuation of that work from a different angle.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. More than 85% of employers perform background checks on all job applicants and deny employment to many citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Worse yet, in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. 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. There is no valid reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequis should visibly remain on the public record. However, Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

In Maryland, charges that *did not* result in a guilty conviction (i.e. non-convictions) are eligible for expungement three (3) years *after* your case is decided. One may file for expungement earlier if they also sign a general release and waiver of all legal claims- preventing them from suing the police department for possible misconduct. Additionally, under current Maryland law Criminal Procedure §10-107, charges that arise from the same incident, transaction, or set of facts are considered a 'unit of charges'. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents many non-convictions from being eligible for expungement via obliteration.

According to Maryland Code, Criminal Procedure, §10-101, "Expunge" means to remove information from public inspection in accordance with this subtitle. Expungement, with respect to a court record or a police record, means removal from public inspection:

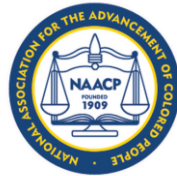
1. by obliteration;
2. by removal to a separate secure area to which persons who do not have a legitimate reason for access.

While most are familiar with the first provision, only a few are familiar with the second, which is the bill's subject. In the past, the Courts and State's Attorney's Office have resisted non-conviction expungement efforts stating that they need access to the not-guilty charges for assessing future potential criminal charges. A rational compromise can be made wherein expungement via storage (provision #2) is used for non-convictions during the three-year expungement waiting period. This way, only the courts will have legitimate access to the charges for proceedings related to that charge, and Marylanders not found guilty of a charge won't have it used against them.

Senate Bill 544 will accomplish this by removing acquittals, dismissals, and nolle prosequi charges from public view during the three (3) year waiting period to eliminate barriers to employment and public services. A criminal record for charges dropped or voided in the court system should not prevent anyone from participating in Maryland's economy. I fully support legislation eliminating barriers to employment for a large contingent of my constituency. Senate Bill 544 does just that- it removes an unnecessarily punitive barrier to employment. For these reasons, we respectfully urge a favorable report of Senate Bill 544.

The Undersigned Organizations/Individuals Support this Bill:

- | | | |
|--|--|--|
| 1. BetterU Construction Training | 11. Baltimore Green Justice Workers | 22. Prison to Professionals (P2P) |
| 2. Out for Justice | 12. Office of the Public Defender | 23. Justice Policy Institute |
| 3. Life After Release | 13. Healthcare for the Homeless | 24. Marian House |
| 4. Helping Oppressed People Excel (H.O.P.E.) | 14. Homeless Persons Representation Project | 25. Southwest Partnership |
| 5. Maryland Nonprofits | 15. Maryland Volunteers Lawyer's Service | 26. Urban Smart |
| 6. Public Justice Center | 16. Maryland Legal Aid | 27. Cornerstone Community Housing |
| 7. Maryland Community Action Partnership | 17. Court Watch PG | 28. PIVOT Program |
| 8. Maryland Alliance for Justice Reform | 18. Maryland Office of the Public Defender | 29. Cornerstone Full Gospel Church |
| 9. The People's Commission to Decriminalize Maryland | 19. Helping Ourselves to Transform | 30. Marylanders Alliance for the Poor |
| 10. Baltimore Action Legal Team | 20. Public Justice Center | 31. NAACP Baltimore |
| | 21. 1199 SEIU United Healthcare Workers East | 32. National Council on Alcoholism & Drug Dependence |
| | | 33. University of Baltimore |



MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



MARYLAND LEGAL AID



SB544_Support.pdf

Uploaded by: Christina Nemphos

Position: FAV

Dear Senator Will Smith and 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. I am a resident of Maryland District 40, and live in the Medfield neighborhood of Baltimore. **I am**

testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunities. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

There is absolutely no reason that interactions with police that don't result in a conviction should be visible on a record or case search. As it stands, these incidents that may very well be the result of chance or circumstantial evidence, end up being a barrier to applying for a lease or getting hired, preventing Marylanders from supporting themselves and their families, and potentially pushing them into dire circumstances.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support of [SB0544](#)**, Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Christina Nemphos
1301 W 42nd Street, Baltimore, Md 21211
Showing Up for Racial Justice Baltimore

SB0544_HB0746_FAV_JOTF_SignOn.docx.pdf

Uploaded by: Christopher Dews

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF SENATE BILL 544 / HOUSE BILL 746:

Criminal Procedure - Expungement of Records - Waiting Period

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

FROM: Christopher Dews, Policy Consultant

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 544/ House Bill 746 as a means of reducing the impact of incarceration on lower-wage workers and eliminating barriers to employment.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. More than [85% of employers perform background checks on all job applicants](#) and deny employment to many citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Worse yet, in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. 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. There is no valid reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequis- should visibly remain on the public record. However, Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

In Maryland, charges that *did not* result in a guilty conviction (i.e. non-convictions) are eligible for expungement three (3) years *after* your case is decided. One may file for expungement earlier if they also sign a general release and waiver of all legal claims- preventing them from suing the police department for possible misconduct. Additionally, under current Maryland law Criminal Procedure §10-107, charges that arise from the same incident, transaction, or set of facts are considered a 'unit of charges'. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents many non-convictions from being eligible for expungement via obliteration.

According to [Maryland Code, Criminal Procedure, §10-101](#), "Expunge" means to remove information from public inspection in accordance with this subtitle. 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.

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

While most are familiar with the first provision, only a few are familiar with the second, which is the bill's subject. In the past, the Courts and State's Attorney's Office have resisted non-conviction expungement efforts stating that they need access to the not-guilty charges for assessing future potential criminal charges. We believe that a rational compromise can be made wherein expungement via storage (provision #2) is used in the case of non-convictions during the three-year expungement waiting period. This way, only the courts will have legitimate access to the charges for proceedings related to that charge, and Marylanders not found guilty of a charge won't have it used against them.

Senate Bill 544/ House Bill 746 will accomplish this by removing acquittals, dismissals, and nolle prosequi charges from public view during the three (3) year waiting period in order to eliminate barriers to employment and public services. A criminal record for charges that have been dropped or voided in the court system should not prevent anyone from participating in Maryland's economy. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in Maryland. Senate Bill 544/ House Bill 746 does just that- it removes an unnecessarily punitive barrier to employment. For these reasons, we respectfully urge a favorable report of Senate Bill 544/ House Bill 746.

The Undersigned Organizations/Individuals Support this Bill:

1. BetterU Construction Training
2. Out for Justice
3. Life After Release
4. Helping Oppressed People Excel (H.O.P.E.)
5. Maryland Nonprofits
6. Public Justice Center
7. Maryland Community Action Partnership
8. Maryland Alliance for Justice Reform
9. The People's Commission to Decriminalize Maryland
10. Baltimore Action Legal Team
11. Baltimore Green Justice Workers
12. Office of the Public Defender
13. Healthcare for the Homeless
14. Homeless Persons Representation Project
15. Maryland Volunteers Lawyer's Service
16. Maryland Legal Aid
17. Court Watch PG
18. Maryland Office of the Public Defender
19. Helping Ourselves to Transform
20. Public Justice Center
21. 1199 SEIU United Healthcare Workers East
22. Prison to Professionals (P2P)
23. Justice Policy Institute
24. Marian House
25. Southwest Partnership
26. Urban Smart
27. Cornerstone Community Housing
28. PIVOT Program
29. Cornerstone Full Gospel Church
30. Marylanders Alliance for the Poor
31. NAACP Baltimore
32. National Council on Alcoholism & Drug Dependence
33. Life After Release

JOTF JOB OPPORTUNITIES TASK FORCE

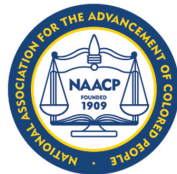
Advocating better skills, jobs, and incomes

34. Helping Ourselves to Transform

36. University of Baltimore

35. CASH Campaign of Maryland

37. Maryland Nonprofits



MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes



MARYLAND
LEGAL AID



Creating Assets, Savings and Hope



SB544 .pdf

Uploaded by: Daryl Yoder

Position: FAV

Dear Senator Smith and 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. I am a resident of District 44A. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

A direct result of this is that those communities that experience more frequent interactions with police and the legal system—specifically low income communities and communities of color—have additional barriers put in front of them when it comes to thriving in our society.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Daryl Yoder
309 Glenmore Ave.
Catonsville, MD 21228
Showing Up for Racial Justice Baltimore

SB544 - Non-Convictions Expungement.pdf

Uploaded by: Erica Palmisano

Position: FAV

Dear Senator Will Smith and 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. I am a resident of 12A. **I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.**



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

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

SB544 .pdf

Uploaded by: Holly Powell

Position: FAV

Dear Senator Will Smith and 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. I am a resident of District 46. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Holly Powell
2308 Cambridge Street
Baltimore, Maryland 21224
Showing Up for Racial Justice Baltimore

SB544_JohnFord_Favorable.pdf

Uploaded by: John Ford

Position: FAV

Dear Senator Will Smith and Members of the Senate Judicial Proceedings Committee,

I am a resident of District 46, and a City of Baltimore resident and workforce development professional. I am testifying in support of SB0544, Criminal Procedure – Non-Convictions Expungement.

In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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 for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. 85% of employers perform background checks on all of their job applicants and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

I have worked with the city's workforce development agency for several years. I know how much of a barrier to employment exposure to the criminal justice system can be, which can form a vicious cycle leading people to crime in order to survive. We need to break these cycles and make it easier to move forward with your life after contact with the justice system. In addition to shorter expungements of criminal convictions, this bill allowing expungement of arrest records where there was absolutely no misconduct proven would be a step in that direction. This bill only affect those who the State has not proven have done anything wrong, and so immediate expungement is the only just solution and the only solution that supports the workforce of this state.

Allow Immediate Expungement via Storage for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of SB0544, Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
John Ford
3301 Fleet St
Baltimore, MD 21224

SB544 .docx.pdf

Uploaded by: Katherine Wilkins

Position: FAV

Dear Senator Will Smith and 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. I am a resident of **12A**. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,

Katherine Wilkins

5605 Foxcroft Way

Columbia MD 21045

Showing Up for Racial Justice Baltimore

HPRP Testimony SB544 - Expungement waiting periods

Uploaded by: Kirsten Downs

Position: FAV

SUPPORT

**SB544 – Criminal Procedure -Expungement of Records
Waiting Periods (non-convictions)**

Testimony of
Kirsten Gettys Downs, Executive Director
Homeless Persons Representation Project

Thursday, March 9, 2023
Senate Judiciary Proceedings

The Homeless Persons Representation Project (HPRP) is a non-profit legal services organization providing free legal representation to housing-insecure people on issues that remove economic and housing security barriers. HPRP advocates assist families and individuals in approximately 15 community-based legal clinics in shelters, soup kitchens, US Department of Veterans Affairs Medical Centers, and other locations. We handle more than 1,000 cases yearly to help persons obtain stable housing and critical public benefits like food stamps, veterans' benefits, health care, and more. While many legal services organizations focus on providing brief advice to large numbers of clients, HPRP works alongside clients throughout their cases, which can last days, months, or even years.

SB544 will expediate expungement relief for vulnerable Marylanders

The Homeless Persons Representation Project (HPRP) joins in support of SB544. SB544 will reduce the waiting periods for filing to expunge eligible non-convictions. It is well established that having an arrest record, even without a conviction, creates barriers to economic and employment opportunities. The existing waiting periods to expunge non-convictions reinforce these barriers. Eliminating the waiting periods will allow individuals to avoid the stigma and impact of public access to non-convictions.

Waiting periods for the expungement of non-convictions are inconsistent with legislative goals of reducing recidivism and increasing economic opportunities.

Even an arrest not followed by a conviction can have lifelong impacts on housing and economic opportunities. Most employers and landlords conduct some form of a background check. Every year, thousands of individuals are excluded from safe, affordable homes and worthwhile employment due to their arrest record, regardless of the arrest circumstances or the lack of a subsequent conviction or guilty disposition. In a recent study, researchers found that "...individuals with more substantial records would be subject to greater amounts of screening and stigma," he said. "Instead, you have a more uniform stigma, certainly in the employment sector, that adheres to people regardless of the extent of the criminal record."¹

Criminal records disproportionately impact Black and brown communities.

It is well established that the criminal system has disproportionately impacted people of color. The disparate impact on people of color makes this a civil rights issue. According to a report by the National Registry of Exonerations, "Black people are more likely to be stopped, searched, arrested and prosecuted in routine drug possession cases;...Black people are also the main targets in a shocking series of scandals in which police officers systematically framed innocent defendants for drug crimes that never occurred."² Efforts to change this systemic injustice must address the collateral consequences of decades of discriminatory policies, such as the economic barriers created by criminal records. All justice initiatives must address the collateral consequences of decades of discriminatory policies. For example, 60% of employers would "probably not" or "definitely not"

¹ Simone Ispa-Landa et al. Indefinite Punishment and the Criminal Record: Stigma Reports Among Expungement-Seekers in Illinois, *Criminology* (2016).

² Samuel R. Gross, et al, Race and Wrongful Convictions in the United States, National Registry of Exonerations (September 2022)



201 North Charles Street, Suite 1104
Baltimore, Maryland 21201
www.hprplaw.org | (410) 685-6589

consider a job applicant for employment once they become aware that the individual has a criminal record.³ According to "employment testing" studies, workers of color with a criminal record are even less likely to be interviewed for a job when compared with similarly situated whites.⁴ Racial injustice persists, and SB544 is one effective step lawmakers can take to address these disparities. The ability to immediately expunge the stain of criminal dispositions is a significant step toward equity. SB544 moves Maryland closer to realizing systemic change.

HPRP strongly urges the Committee to issue a favorable report on SB544. Please contact Kirsten Gettys Downs (kgettysdowns@hprplaw.org) with questions or for additional information.

³ Harry Holzer, Steven Raphael, Michael Stoll, "Perceived Criminality, Criminal Background Checks and the Racial Hiring Practices of Employers," (April 2005), at page 3.

⁴ Devah Pager, "The Mark of a Criminal Record" 108 AmJ.Soc. 937 (2003)

SB544 - expungement by storage for nonconvictions.

Uploaded by: Lindsay Keipper

Position: FAV

Dear Senator Smith and Members of the 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. I am a resident of District 46 and I am testifying in support of **SB 544, Criminal Procedure – Non-Convictions Expungement.**



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. That arrest and anything that follows will turn up on a background check, and any case filed as a result- even if it is dismissed or the person is acquitted- will remain publicly visible via Maryland Case Search. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. 85% of employers perform background checks on all of their job applicants.¹

Maryland law already recognizes that there's no reason someone who has been acquitted, or whose charges have been dismissed entirely, should have the stain of a criminal record. Unfortunately, to balance the rights of the arrestee against the need of the state to have the evidence they need to defend against any lawsuit, the person must either wait for the statute of limitations for suit to expire (three years) or agree to waive any right to file suit based on their arrest or prosecution. It is unfair to require people to give up any potential legal remedy in order to move beyond an arrest that didn't result in any conviction; arguably, this rule places the greatest burden on those whose arrests may have been unlawful.

There is a simple solution for this conundrum. Maryland law already provides for shielding, or expungement by storage, which allows some categories of case records to be removed from public view without destroying the records entirely. SB0544 would allow the arrest and court records for cases resulting in dismissal or acquittal to be treated this way. This is a good solution for everybody: members of the public can move beyond the closed case without having to give up their option to seek legal advice or take action based upon the state's conduct, and the state will have the needed evidence at its disposal if it is ever required to defend itself in a lawsuit. When the three years has expired, folks who want the records destroyed entirely can file for a regular expungement.

Please vote **in support** of **SB 544**, Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Lindsay Keipper
2425 Fleet St.
Showing Up for Racial Justice Baltimore

1

[https://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/conductingbackgroundinvestigations.aspx#:~:text=A%20survey%20by%20the%20Society,cycle%20\(see%20chart%20below\).](https://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/conductingbackgroundinvestigations.aspx#:~:text=A%20survey%20by%20the%20Society,cycle%20(see%20chart%20below).)

SB544 - fav - ems - 2023.pdf

Uploaded by: Liz Simon-Higgs

Position: FAV

Dear Senator Will Smith and Members of the Senate Judicial Proceedings Committee,

I am a longtime resident of Baltimore City District 46 and am submitting this testimony as a member of Showing Up for Racial Justice - Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity in Baltimore City and the surrounding region. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. **The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland.** And [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allowing [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Liz Simon-Higgs
308 E Randall Street, Baltimore, MD 21230
Showing Up for Racial Justice Baltimore

SB544 expungement of records waiting period OPD fa

Uploaded by: Melissa Rothstein

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0544 Criminal Procedure - Expungement of Records - Waiting Period

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 3/8/2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 544. SB 544 will allow individuals immediately entitled to expungement to secure that expungement without waiving their tort claims.

OPD has counseled and advised thousands of members of communities throughout Maryland over the years, through our individual representation and our participation in community events. We are committed to helping our clients move forward in their goals of being full time members of their communities without the stigma of a criminal record.

The impact of an arrest or prosecution continues with every job application or job advancement; with every housing application; and with every educational application. For individuals who have been wrongfully harmed by illegal police or prosecutorial action, preserving their rights to civil relief must be weighed against the potential job, new housing, or educational opportunity that may be thwarted because of a charge on their criminal record.

Notably, the charges that are typically eligible for expungement within the three year statutory period are those resulting in a favorable disposition (acquittal, dismissal, nolle prosequi, stet, probation before judgement, not criminally responsible). Someone who has suffered from police abuse or an unlawful arrest is especially likely to have their case favorably disposed. Individuals who have been unlawfully harmed should not be forced to choose between seeking redress for any tortious conduct and reducing the collateral consequences of an unlawful arrest, detention, or mistreatment.

The Maryland General Assembly has taken significant strides forward in helping thousands of Marylanders move forward after an arrest, by expanding the eligibility of dispositions and the automatic expungement of favorable dispositions. This bill is a modest step forward to ensure these protections are available right away for those who may have suffered a tortious injury.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 544.

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

**Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.**

SUPPORT SB 544 - expungement-waiting-nonconviction

Uploaded by: Philip Caroom

Position: FAV

SUPPORT SB 544 - expungement - waiting period - nonconvictions



TO: Chair Will Smith and Senate Judicial Proceedings Committee
FROM: Phil Caroom, MAJR Executive Committee
DATE: March 9, 2023

Maryland Alliance for Justice Reform (MAJR-www.ma4jr.org) supports **SB 544** to offer relief for a problem facing Marylanders seeking honest employment: too often, the State overcharges an offense-- including more serious charges (not eligible for expungement) then later dismisses the charges or approves a plea to lesser, nonviolent charges.

Worsening the situation, the dismissed or excess charges—even though a not-guilty or *nol pros* result—remain online in Maryland’s Judiciary Case Search and create unfair suspicion that may block employment or even job interviews.

Unfortunately, current Maryland law keeps even nonconvictions online via Maryland Judiciary Case Search for at least three years. And, Maryland’s “unit rule” permanently prohibits expungement of eligible charges if any charges within a unit are not eligible for expungement.

Both federal and state studies clearly show that returning citizens who are employed are much less likely to commit new offenses than those who are unemployed. A 2017 Greater Baltimore Committee report summarizes this research, stating:

the single largest determinant of re-arrest and re-conviction is whether or not a person is able to find a job upon release from prison. The probability of re-conviction for someone who is employed within two months of release and earning \$10 or more per hour is only 8 percent, one-third of the probability of an unemployed ex-offender.

While there may be minor tax revenue losses and administrative costs to reinstating this program, legislators should put this in the larger context. Without employment, the ex-offender is approximately twice as likely to return to prison, costing taxpayers over \$40,000 per year on average—much more than **SB 544’s** projected costs.

For all these reasons, expungement measures to assist with employment should be understood as important measures to support reduce taxpayer costs, as well as to promote family stability, public safety and crime-prevention. Maryland Alliance for Justice Reform (MAJR) strongly supports **SB 544** and we urge the Committee to give it a favorable report.

PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary.

Expungement Waiting Period SB544.pdf

Uploaded by: Psalms Rojas

Position: FAV



MARIAN HOUSE

Women Moving from Dependence to Independence

TESTIMONY IN SUPPORT OF SB 544

Criminal Procedure – Expungement of Records – Waiting Period

March 8, 2023

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

Testimony of Marian House in Support of SB 544

Dear Chair Smith, Vice-Chair Waldstreicher, and members of the Judicial Proceedings 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 544 - Criminal Procedure – Expungement of Records – Waiting Period.**

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.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. More than [85% of employers perform background checks on all of their job applicants](#) and deny employment to many citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Worse yet, in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. 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. There is no valid reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequi- should visibly remain on the public record. However, Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Senate Bill 544 will remove acquittals, dismissals, and nolle prosequi charges from public view during the three (3) year waiting period to eliminate barriers to employment and public services. A criminal record for charges that have been dropped or voided in the court system should not prevent anyone from participating in Maryland's economy. Marian House fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in Maryland. Senate Bill 544 does just that- it removes an unnecessarily punitive barrier to employment. **For these reasons, we respectfully urge a favorable report of Senate Bill 544.**

Thank you for your support,

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

SB544 .pdf

Uploaded by: Rebecca Shillenn

Position: FAV

Dear Senator Will Smith and 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. I am a resident of District 45. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

My former neighborhood community center in Barclay used to hold regular expungement clinics, and they were some of the most popular events we held. I think it's important that people have the opportunity to expunge their records if they have them, but I was really shocked to realize that people still have records for charges which were dismissed or acquitted. There is no reason why someone should have to bear a criminal record for a crime that was dismissed or they were found not guilty of, and it's the type of red tape that keeps community members from being able to take care of themselves and their families. Maryland is often citing the desire to get people back to work: let's get them back to work.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

Sincerely,
Rebecca Shillenn
5401 Elsrode Avenue Baltimore MD 21214
Showing Up for Racial Justice Baltimore

SB0544-Immediate Expungment_FAV.pdf

Uploaded by: Sarah Johnson

Position: FAV

Dear Senator Will Smith and 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. I am a resident of District 41 in Baltimore City. **I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.**



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that **I am encouraging you to vote in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.**

Thank you for your time, service, and consideration.

Sincerely,

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

SB544 .pdf

Uploaded by: Tamara Todd

Position: FAV

Dear Senator Will Smith and 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. I am a resident District 10. I am testifying in support of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.



In Maryland, a criminal record is acquired upon arrest, whether or not a person is ever convicted of a crime. 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](#) for three years unless the individual waives their right to sue. The appearance of a criminal record in a routine background check can and often will block access to employment, education, housing, and occupational licensing- all of which are necessary to advance in Maryland. [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. There is no valid reason that charges that did not result in a conviction (i.e. non-convictions) should visibly remain on the public record and prevent access to opportunity. Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

Allow [Immediate Expungement via Storage](#) for all charges that resulted in acquittals, dismissals, and nolle prosequis. Doing so will relieve an unnecessary barrier to employment, education, housing, and public assistance, while still allowing the individual their legal right to sue.

It is for these reasons that I am encouraging you to vote **in support** of [SB0544](#), Criminal Procedure – Non-Convictions Expungement.

Thank you for your time, service, and consideration.

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

sb544.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
Matthew Pipkin, Jr.
410-260-1561
RE: Senate Bill 544
Criminal Procedure – Expungement of Records – Waiting Period
DATE: February 8, 2023
(3/9)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 544. This bill repeals the waiting period for certain records under Criminal Procedure Article § 10-105. A petition for expungement based on a “not guilty” verdict, an acquittal, a nolle prosequi, or a dismissal may be filed immediately after the disposition. Currently, the filing for this petition could not occur until at least three years after the disposition. This bill also adds a prohibition that police or court records may not be expunged by obliteration until 3 years after the date of disposition of the charge.

The Judiciary opposes this bill given that it is not workable. This bill mandates courts to store separately in a secure area all records in cases in the last 3 years resulting in a not guilty verdict, an acquittal, a nolle prosequi, or a dismissal, as required in the bill at Criminal Procedure § 10-105(c)(1)(ii)2. During the 3-year period, the record shall be removed to a separate secure area to which a person who does not have a legitimate reason for access shall be denied. However, court records are all electronic in MDEC, except in Baltimore City. There is no way to segregate electronic records to a separate area. The bill does not seem to recognize that court records are not kept in paper form.

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

MCPA-MSA_SB 544 Expungement of Records - Waiting P

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: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 9, 2023

RE: **SB 544 - Criminal Procedure – Expungement of Records – Waiting Period**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 544**. This bill would allow certain individuals to file immediately for a petition for expungement and removes the requirement to file a written waiver to release all tort claims before receiving the expedited expungement.

Under Crim. Pro. §10-105(c), an expungement based on an acquittal, a nolle prosequi, or a dismissal “may not be filed within 3 years after the disposition, unless the petitioner files with the petition a general waiver and release of all the petitioner’s tort claims arising from the charge.” SB 544 would expand the provision to include a disposition of “not guilty,” remove the prohibition against filing within 3 years of the disposition and remove the waiver provision.

Three years covers the statute of limitations for most civil claims that could be filed against law enforcement, a complainant, or a witness. Without such a waiver, a plaintiff might file a suit claiming, for example, false arrest or malicious prosecution and the defendant would not be allowed to use and disclose the records relating to the arrest or prosecution. Requiring a waiver, as current law does, protects agencies, officers, complainants, victims, and witnesses from wrongful suits and allows them to present a meaningful defense.

SB 544 does prohibit the obliteration of records before three years and allows for some level of access. However, the record may only be accessed for “purposes of proceedings related to the arrest or charge.” The language does not allow for disclosure for purposes of proceedings related to the arrest or charge. An agency or person defending a suit must be allowed to both access and disclose the records relating to the incident.

MCPA and MSA believe changes to expungements like those proposed in SB 544 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, the MCPA and MSA **OPPOSE SB 544** and request an **UNFAVORABLE** committee report.