



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: February 2, 2023

RE: **SB 88 – Criminal Procedure – Automatic Expungement – Pardoned Conviction of Possession of Cannabis (Pardon for Simple Possession of Cannabis Act of 2023)**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 88. This bill would require the automatic expungement of a conviction of possession of cannabis if it has been fully and unconditionally pardoned by the Governor.

Current provisions in Md. Code, Criminal Procedure Article, §10-105 specify 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.” This three-year timeframe 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.

Under SB 88, a possession conviction meeting the specified criteria would automatically be expunged not providing for a waiver of release during a three-year waiting period under the statute of limitations. Should charges be brought against law enforcement, a complainant, or witness, there would be no way to go back to review the case to substantiate the claim or construct a defense.

Although law enforcement has broad concerns with the expansion of expungements, at the very least a holding period should be applied to those convictions where there is pending litigation or a threat of litigation during the 3 year statute of limitations. This would ensure the law enforcement officer, complainant or witness in the matter would have access to investigatory files for their defense.

MCPA and MSA OPPOSE SB 88 and request an UNFAVORABLE Committee report.