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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.

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