



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:

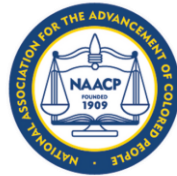
1. by obliteration;
2. by removal to a separate secure area to which persons who do not have a legitimate reason for access.

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:

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| 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

