



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter
In Favor of SB17 - Criminal Procedure - Expungement of Records -
Good Cause
Before the Judicial Proceedings Committee
on February 2, 2023**

Senate Bill 17 (SB17) will authorize Maryland courts to grant a petition for expungement of certain convictions, at any time, upon a showing of good cause.

Often times, a criminal record results from poverty and the lack opportunities for the less fortunate. A criminal record has a detrimental impact on one's ability to secure employment, housing, and the ability to take advantage of many other opportunities. Approximately twenty-five percent (25%) of working-age Marylanders have a criminal record. In addition, each year, approximately 15,000 Marylanders are released from state prisons and struggle to secure employment and/or a place to live. Demographically, seventy-one (71%) of Maryland's prison population is black, the highest in the nation; and one (1) out of three (3) Marylanders returning from incarceration reside in Baltimore City.

The Department of Justice has documented high recidivism rates among citizens returning to society, with half of all returning citizens reoffending within three (3) years and sixty percent (60%) reoffending within five (5) years. One of the primary drivers of these high recidivism rates is the inability to secure employment. More than sixty percent (60%) of formerly incarcerated persons remain unemployed one (1) year after release. This is mainly because more than eight-five percent (85%) of employers perform criminal background checks on job applicants, and deny employment to applicants with a criminal record. A criminal conviction of any sort reduces job opportunities in half. This leaves many citizens who completely paid their debt to society with a criminal record and unable to obtain gainful employment. A 2015 Manhattan Institute study revealed that employment, especially within the first six (6) months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Maryland has a variety of laws that, in combination, prevent Marylanders from accessing the expungement services needed to reintegrate into society. First, Maryland has much longer waiting periods for expungement than several other states. Under Maryland Criminal Procedure Ann. Cod, §10–110A, an individual must wait ten (10) years before becoming eligible to expunge most *nonviolent* misdemeanor convictions, and fifteen (15) years for common-law battery, 2nd-degree assault, and non-violent felonies. The eligibility period does not begin until *after* completion of the entire sentence, parole, probation, drug treatment, *and/or* any mandatory supervision. In most instances, the waiting period is longer than the actual sentence, thereby creating major barriers to education, employment, housing, public assistance, occupational licensing, and much more. According to a recent report from the Collateral Consequences Resource Center (CCRC), forty-two (42) states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah.

Additionally, under 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 charges within the unit. This prevents charges that would be eligible for expungement from actually being expunged.

Lastly, if an individual violates parole or probation or manages to have a subsequent conviction during the waiting period, it is virtually impossible to expunge the original charge. Many criminal law attorneys and some judges decry their inability to dispense justice due to the complex web of laws blocking expungement access. A 2009 study funded by the National Institute of Justice examined more than 80,000 criminal records and found that there is a point in time when an individual with a criminal record is at no greater risk of committing another crime than other individuals of the same age. But without an expungement, reintegration into society is extremely difficult.

SB0017 offers an opportunity to access the expungement process at any time, upon a showing of good cause. The courts retain their judicial discretion in determining expungements.

I urge a favorable report on SB17, enabling Marylanders to rebuild their lives.

Sincerely,

Jill P. Carter

Jill P. Carter, Esq.