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TO: The Honorable Will Smith Jr.
Chair, Judicial Proceedings Committee

FROM: Hannibal G. Williams II Kemerer
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: SB 0088 – Criminal Procedure – Automatic Expungement – Pardoned
Conviction of Possession of Cannabis (Pardons for Simple Possession of
Cannabis Act of 2023) – **Support**

The Office of Attorney General urges this Committee to favorably report Senate Bill 88. Vice Chair Waldstreicher's and Senator Carter's bill would require a conviction for simple possession of cannabis that has been fully and unconditionally pardoned by the Governor to be automatically expunged from an individual's record. The bill also outlines the procedure in which the courts, Central Repository, law enforcement agencies, and booking facilities would follow to search for and expunge such convictions. Additionally, if an expungement is not effectuated in accordance with these requirements, the individual entitled to expungement may file a petition.

In 2021, following the implementation of various marijuana decriminalization laws requiring expungement for low-level cases, the New Jersey Supreme Court ordered the expungement of nearly 360,000 convictions.¹ This past November, Marylanders voted to pass a ballot referendum legalizing adult use of cannabis. Maryland can, and should, follow suit in automatically expunging records of simple possession for cannabis.

A criminal record severely restricts an individual's access to employment, housing, education, public assistance, and more.² This limited access affects not only individuals' socio-

¹ NEW JERSEY COURTS, *Notice and Order – Automated Processes for Certain Marijuana and Hashish Cases in Accordance with the Marijuana Decriminalization Law* (July 1, 2021) (available at <https://www.njcourts.gov/notices/notice-and-order-automated-processes-certain-marijuana-and-hashish-cases-accordance>).

² Kenny Lo, *Expunging and Sealing Criminal Records: How Jurisdictions Can Expand Access to Second Chances*, CENTER FOR AMERICAN PROGRESS (Apr. 15, 2020), <https://www.americanprogress.org/article/expunging-clearing-criminal-records/>.

economic well-being, but can extend across generations, impairing outcomes for their children as well.³

Compared to other publicly-funded programs designed to improve these outcomes, such as job-training programs, expungement provides more favorable results and bears minimal costs, which may be further reduced with an automated process.⁴ In addition, research shows that individuals with expunged criminal records commit subsequent offenses at lower rates than the general public.⁵ Therefore, removing the barriers to prosperity associated with a criminal record upon the Governor's pardon can alleviate hardships and improve outcomes for these individuals, with little threat to public safety.

For the foregoing reasons, the Office of Attorney General urges a favorable report on Senate Bill 88, and advises that the Judiciary be given sufficient resources to implement the bill.

³ *Id.*

⁴ J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 HARV. L. REV. 2460, 2551–52 (2020) (available at <https://repository.law.umich.edu/articles/2165>).

⁵ *Id.* at 2552.