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POSITION ON PROPOSED LEGISLATION

BILL: SB 17 Criminal Procedure - Expungement of Records - Good Cause

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: January 25, 2023

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 17.

The Maryland General Assembly has taken huge steps forward in providing assistance to thousands of Maryland citizens through expanding the eligibility of dispositions and the automatic expungement of favorable dispositions. Thank you; for you may not realize how many lives you have impacted for the better.

The Office has seen these improvements as we have counseled and advised thousands of members of communities throughout Maryland on their expungements over the years. Our attorneys have assisted clients on expungements via individual representation and our office has participated in community events. We have filed, argued, advocated, and reformed the expungement law through court proceedings.

Two recent appellate decisions have drastically changed the filing of an expungement petition. *In Re Expungement Petition of Meagan H.* and *In Re Expungement Petition of Vincent S.*, the appellate court indicated that anyone that has any type of a violation of probation would not be eligible for expungement. These decisions are counter intuitive to the expungement statute. To preclude an otherwise permissible expungement because of a mere technical violation of probation – for example a missed visit or one failed drug test – would undermine the purpose of expungement processes. Specifically, there is language in Criminal Procedure § 10-110 that permits the Judge to look at the individual applying for expungement and contemplate their current circumstances in respect to their expungement. Removing this individualized discretion from the expungement process would be draconian.

Senate Bill 17 will reduce the restriction that was recently created by the appellate courts.
And allow a Judge to look at the individual applying for expungement under an appropriately discretionary good cause exception.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 17.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

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