

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

## TESTIMONY IN SUPPORT OF THE REDEEM ACT (SB0037):

### **Criminal Procedure – Expungement of Records – Modifications**

TO: Members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Policy Consultant

DATE: February 2, 2023

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. JOTF supports The REDEEM Act as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, [71% of Maryland's prison population is black](#) (pg.20), the highest in the nation, and one out of three Marylanders returning from incarceration return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: [over 60 percent of formerly incarcerated persons remain unemployed](#) one year after their release. This is mainly because more than [85% of employers perform background checks on all of their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15 years** for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

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According to a [recently released report](#) (pg.4-5) from Collateral Consequences Resource Center (CCRC), 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah. Regarding non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma. [Maryland Code Ann., Criminal Procedure §10–110](#) lays out which crimes are eligible for expungement under the mentality that certain offenses should *not* be held against Marylanders forever. The REDEEM Act takes this argument to its logical conclusion and simply shortens the waiting periods *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision with the express intent of removing barriers to employment. Lastly, it is important to note that the only felony convictions that will have their waiting periods reduced are drug possession and distribution, thefts, and burglaries. Violent convictions are *excluded* from the REDEEM Act.

The REDEEM Act makes several changes to the expungement statutes including:

1. *Eligible* Misdemeanors
  - a. From 10 to 3 years
2. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)
  - a. From 15 to 5 years
3. *Eligible* Non-Violent Felonies
  - a. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million Marylanders (REDEEM) who are shut out of the workforce due to a criminal record. The provisions of The REDEEM Act align with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families. Maryland law shouldn't be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on The REDEEM Act and are open to discussing the bill's provisions with the committee members.

Below are visual aids from the [Collateral Consequences Resource Center](#) that highlight the policies of other states in comparison to Maryland. Here is a [list of all the charges](#) that will receive a possible reduction in wait times.

**For more information, contact:**

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**50-State Table #1: Misdemeanor Convictions**  
Waiting Periods for Record Clearing (Expungement or Sealing)

	No waiting period	From conviction	From completion of incarceration	From completion of incarceration and supervision	From another starting point*
<3	MS: 0 yrs.			WV: 1 or 2 yrs.	CA: 0 or 1 yrs.
<3					OH, MO: 1 yr.
<3					TX: 0 or 2 yrs.
<3					NV: 1 or 2 yrs.
<3					NM: 2 yrs.
<5		AL, ND: 3 yrs.	OR: 1 or 3 yrs.	CO, KS: 3 yrs.	AZ, NH: 2 or 3 yrs.
<5			MA: 3 yrs.		IL, WA: 3 yrs.
<5				MN: 2 or 4 yrs.	GA: 4 yrs.
<6		SC: 3 or 5 yrs.		OK: 0 or 5 yrs.	AR: 0 or 5 yrs.
<6				UT: 3 or 5 yrs.†	MI, NJ: 3 or 5 yrs.†
<6		IN, SD: 5 yrs.		KY, LA, RI, TN, VT, WY: 5 yrs.	MT: 5 yrs.
<8			VA: 7 yrs.		DE: 3-7 yrs.†
<8				NC: 5 or 7 yrs.	CT: 7 yrs.
<10		IA: 8 yrs.		DC: 8 yrs.	
10+		PA: 10 yrs.	NY: 10 yrs.	MD: 10 or 15 yrs.	
AK, Federal, FL, HI, ID, ME, NE, WI: No general record clearing for misdemeanor convictions					

\* See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start. A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

† These states' automatic record clearing laws have different waiting periods (than those reflected in

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**50-State Table #2: Felony Convictions**

Waiting Periods for Record Clearing (e.g., Expungement or Sealing)

	From conviction	From completion of incarceration	From completion of incarceration & supervision	From another starting point <sup>‡</sup>
<4				CA: 0-2 yrs.
<4				OH: 1 or 3 yrs.
<4				IL, MO: 3 yrs.
<6				AR: 0 or 5 yrs.
<6			CO: 3 or 5 yrs.	NJ: 4 or 5 yrs. <sup>§</sup>
<6			KS, KY, MN, VT, WV: 5 yrs.	MS: 5 yrs.
<8		OR: 5 or 7 yrs.	UT: 7 yrs.	MI: 5 or 7 yrs. <sup>§</sup>
<8		MA: 7 yrs.		DE: 7 yrs. <sup>§</sup>
<11	ND: 5 or 10 yrs.	NY, VA: 10 yrs.	OK, TN, WA: 5 or 10 yrs.	NV: 2-10 yrs.
<11	IN: 8 or 10 yrs.		LA, RI: 10 yrs.	NM: 4-10 yrs.
<11				AZ, NH: 5 or 10 yrs.
<11				CT, WY: 10 yrs.
<21			NC: 10 or 20 yrs.	
<21			MD: 15 yrs.	

AL, AK, DC, Federal, FL, GA, HI, ID, IA, ME, MT, NE, PA, SC, SD, TX, WI-  
No general record clearing for felony convictions



<sup>‡</sup> See the Appendix for more details. Note that some of these states require payment of court debt before the waiting period begins to run. For more information on court debt as a barrier to record clearing, see a new report by CCRC and the National Consumer Law Center: [The High Cost of a Fresh Start. A State-by-State Analysis of Court Debt as a Bar to Record Clearing](#) (Feb. 2022).

<sup>§</sup> These states' automatic record clearing laws have different waiting periods (than those reflected in the chart): 10 years in Delaware; 10 years in Michigan; and 10 years in New Jersey. See the Appendix for more information.

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## 50-State Maps

