

Bill Number: HB 664
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 664
CRIMINAL PROCEDURE - EXPUNGEMENT OF RECORDS – GOOD CAUSE

The Maryland States Attorneys Association is opposed to House Bill 664, Criminal Procedure-Expungement of Records – Good Cause and asks for an unfavorable report.

In 2016, the Maryland Legislature embarked on a mission and project which became the Justice Reinvestment Act. Included within this extensive package aimed at addressing the criminal justice system, as it existed, was a major change and expansion of expungement availability for those intent on first paying their debt to society but then intent on making a future for themselves without the constraint of a criminal record. In doing so, however, the Legislature was cognizant of and created statutes which still required some accountability and protection of society. This Bill will take us beyond consideration for some accountability and provide little ability to protect society from those who choose to repeatedly commit offenses.

House Bill 664 would effectively eliminate the well-considered time frames for expungement crafted by this Legislature less than seven years ago. Currently, within the lengthy list of misdemeanors in Criminal Procedure §10-110 from which guilty findings can be expunged, the time limitations is ten years. This Legislature determined that this was an appropriate time period in which an individual is able to demonstrate an ability to show their desire to be and remain law abiding. It is important to remember, in many or most circumstances, if an individual had committed one of the listed offenses and had no prior record, they had a strong possibility of receiving a Probation Before Judgment (not a conviction) and would have already been able to expunge that under CP §10-105 in three years. If they had not received a Probation Before judgement for a first offense, it would seem quite likely that the offense was deemed by the Judge to be so serious that it didn't merit such a disposition. Ten years was a well-considered time period for what was judged to be quite a serious or a repeat offense.

House Bill 664 would permit an expungement of a conviction for the enumerated offenses in CP §10-110 to occur at any time with a showing of "good cause". Good cause is not defined in the bill. This would mean that a Judge could expunge a conviction at any time for any reason as long as the Judge felt it was a good idea. Expungements do not necessarily go to the Judge who imposed the sentence in a case. One Judge could have imposed a significant sentence either to jail or on probation and another Judge could expunge that case the next day. This makes no sense. The time frames are there for a reason. The statute already sets forth a standard for a Judge to

look at to determine if expungement is appropriate with the time limits in place. That standard is equivalent to a good cause determination. This bill would make those well considered time limits meaningless.

The public deserves to know about the criminal conviction of an individual for at least some reasonable period of time. Please allow the Judges and prosecutors and the public the knowledge of a prior crime until the individual has demonstrated by the passage of a significant period of time that they have demonstrated that they deserve the removal of all record of their past acts.

We request an unfavorable report.