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Position: FAV



**Testimony for the House Judiciary Committee
February 23, 2023**

HB 660 Criminal Procedure - Expungement – Convictions

FAVORABLE

DAVID CARTER
LEGAL INTERN

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL
ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland urges a favorable report on HB 660, which would expand the eligibility of convictions that qualify for expungement.

Studies show that employment opportunities can reduce recidivism rates.¹ Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing.

The existence of a criminal record can and does create a barrier to employment for many Marylanders. More than 80 percent of U.S. employers perform criminal background checks on prospective employees.² Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a barber license,³ a cosmetology license,⁴ an electrician license,⁵ professional engineer license,⁶ a landscape architect license,⁷ an interior designer certificate,⁸ and countless others.

Criminal convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information

¹ See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

² Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management, Alexandria, Va.: Society for Human Resource Management, 2006.*

³ Md. Business Occupations and Professions, Code Ann. § 4-314

⁴ Md. Business Occupations and Professions, Code Ann. § 5-314

⁵ Md. Business Occupations and Professions, Code Ann. § 6-316.

⁶ Md. Business Occupations and Professions, Code Ann. § 14-317.

⁷ Md. Business Occupations and Professions, Code Ann. § 9-310.

⁸ Md. Business Occupations and Professions, Code Ann. § 8-310.

as part of the admissions process.⁹

A criminal conviction also hinders an individual's access to stable housing and a range of public benefits. Even a misdemeanor conviction record may bar individuals from residing at certain homes,¹⁰ and exclude individuals from low-income utility payment plans¹¹ as well as food stamps.¹²

HB 660 will allow individuals with certain criminal convictions to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy. By increasing access to this broad range of services, HB 660 can reasonably be expected to generate greater socioeconomic stability and productivity in Maryland's communities.

Criminal convictions disparately disadvantage individuals, families, and communities of color.

The over-criminalization of communities of color – due in large part to the ‘war on drugs’—has produced the startling result that one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latino men, and one in seventeen White men.¹³ In addition to facing higher imprisonment rates, racial minorities, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their White counterparts.¹⁴

With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from criminal convictions. Exclusion from the job market, stable housing, and countless other crucial services perpetuates the cycle of imprisonment plaguing communities of color—without gainful employment and stable housing, individuals are forced to return to livelihoods of criminality.

A person should not be continually defined nor punished for their worst day, rather they should be afforded the opportunity to rechart their future and participate in the collective prosperity and security of the community. HB 660 grants that opportunity and nudges the door a little further to a new path of opportunities and self-sufficiency.

Thus, for the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 660.

⁹ Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

¹⁰ *See for example*, COMAR 35.04.01.04.

¹¹ COMAR 20.31.01.08.

¹² Md. Human Services Code Ann. § 5-601.

¹³ Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (HUFFINGTON POST, Oct. 4, 2013).

¹⁴ *Id.*

HB 660 Expungements Support .pdf

Uploaded by: John Giannetti

Position: FAV

Maryland Criminal Defense Attorneys' Association



Md House of Delegates – Judiciary Committee

February 23, 2023

Hearing on HB 660

Criminal Procedure – Expungement Convictions

MCDAA POSITION: SUPPORT

Brief bill explanation: This bill authorizes a person to file a petition for expungement after 15 years under § 10-110 of the Criminal Procedure Article if the person has been convicted of a felony that is a violation of § 3-202 (first-degree assault – if the crime did not involve domestic violence and the person has no other convictions); § 3-403 (robbery with a dangerous weapon); or § 3-405 (carjacking/armed carjacking) of the Criminal Law Article.

MCDAA's position: We support the sponsor's attempt to make the expungement of one's criminal history more uniform and more consistent with current trends. Even after an individual has paid, in full, a debt to society through the imposition of a conviction, probation, incarceration and/or restitution, the record of the conviction often hinders the individual's ability to fully integrate into society again. MCDAA favors, in general, the inclusion of additional crimes that can be expunged after the requirements of the punishment have been fulfilled, and after the waiting period.

For additional information or questions regarding this legislation, please contact MCDAA Government Relations Contact John Giannetti 410.300.6393, JohnGiannetti.mcdaa@gmail.com

HB 0660 - Favorable.pdf

Uploaded by: Kenneth Phelps, Jr.

Position: FAV



THE EPISCOPAL DIOCESE OF MARYLAND

TESTIMONY IN SUPPORT OF HB 0660: Criminal Procedure - Expungement – Convictions

****FAVORABLE****

February 23, 2023

TO: Hon. Luke Clippinger, Chair, Hon. David Moon, Vice Chair and the members of the House Judiciary Committee

FROM: Rev. Kenneth O. Phelps, Jr., Co-Chair, Maryland Episcopal Public Policy Network, Diocese of Maryland

DATE: February 23, 2023

The Episcopal Church, at its 78th Convention in 2015, passed sweeping resolutions aimed at ending mass incarceration practices and mitigating solutions for the damages inflicted upon certain communities by both arrest and sentencing policies and practices.

The Episcopal Church at large and the Diocese of Maryland in particular has embraced the concept of reparations, a concept not limited to financial considerations but to a leveling of the playing field across a broad spectrum of issues, including criminal justice. Serious charges, even if they were dropped or resulted in a not-guilty verdict, hinder people who are attempting to get jobs, find housing or seek education, often because the information is easily accessible.

We believe that increasing the number and type of crimes that can be expunged and shortening the prescribed waiting periods- in some cases to immediate – will be another small step in repairing (reparations) the damage done by a decades long policy of mass incarcerations.

The Diocese of Maryland requests a favorable report.

Testimony - 2023 - HB 660.pdf

Uploaded by: Mary Denise Davis

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB 660

Criminal Procedure - Expungement of Records - Convictions

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 21, 2023

The Office of the Public Defender respectfully requests that the Committee issue a favorable report on House Bill 660.

The Public Defender's Office established a weekly expungement clinic in the NorthWest area of Baltimore and partnered with other organizations to offer an annual event - Back to the Neighborhood: How to Succeed with a Criminal Record." During this time, we came to learn the importance of the availability of expungement and how expungement can change lives.

Since 2007, there have been some major changes in the expungement law. Each year, the legislators have introduced changes to the expungement law and some have been signed into law. These laws have had an impact for so many Maryland residents and for many individuals in the years to come.

The Public Defender has advocated for change to allow our clients to move forward and not be burdened with the stigma of a criminal record years after the act - including not just what is on a person's RAP sheet but what is available on Maryland Judiciary Case Search and the information that has been obtained and disseminated by private databases. I like to refer to expungement as a form of legal redemption that should be accessible to all who have changed their lives and their stories for themselves and their families.

For some clients, the past remains in the past but for many clients it will resurface when they are looking for employment or advancement in their current jobs; looking for better housing opportunities; or looking to further their education. The change that these clients are hoping for may not be actualized because of these convictions remaining on their criminal record and Maryland Judiciary Case Search; and also that these dispositions remain in private databases. Clients who have rehabilitated themselves should be able to access the expungement statute.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 660.

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

**Authored by: Mary Denise Davis, Chief Attorney of the Pretrial Unit, Baltimore City
marydenise.davis@maryland.gov, 410-878-8150.**

Expungement Convictions - HB660.pdf

Uploaded by: Psalms Rojas

Position: FAV



MARIAN HOUSE

Women Moving from Dependence to Independence

TESTIMONY IN SUPPORT OF HB 660
Criminal Procedure – Expungement – Convictions

February 21, 2023

Delegate Luke Clippinger
Room 101
House Office Building
Annapolis, MD 21401

Testimony of Marian House in Support of HB660

Dear Chairman Clippinger, Vice-Chair Moon, and members of the Judiciary Committee,

Marian House is a holistic, healing community for women and their children who are in need of housing and support services. Marian House provides comprehensive support services to assist women with experiences of trauma, including poverty, substance abuse, and incarceration. **I write to urge you to support House Bill 660 - Criminal Procedure – Expungement - Convictions**

Over forty years ago, Marian House was opened to provide reentry supports for women leaving incarceration as Sisters and laywomen recognized that lack of support contributed to recidivism rates. Today, we have also expanded to serve women with histories of trauma including homelessness, incarceration, neglect, substance abuse and mental health needs. Since our opening, we have assisted women who have been victims of crime in reinventing and rebuilding themselves through services such as: counseling, substance abuse treatment, job training and providing both long and short-term housing. All the women we have served have overcome obstacles on their journeys to become contributing members of society in the Baltimore area.

It is no secret that obtaining gainful employment and housing is contingent on a background check. Therefore, it is no surprise that individuals with history of convictions and criminal justice involvements face great barriers to achieving and maintaining a stable life after their release. By passing HB660, the State is recognizing that no one is the sum of their mistakes and that everyone is deserving of a second chance. In Financial Year 22, Marian House served twenty-one women who had lived/resided in jail, prison, or a juvenile detention facility. Through these women, we have seen firsthand that they struggle to build confidence and independence as they have faced many barriers to employment and housing due to their former criminal records. By supporting HB660, the 1.5 million Marylanders, including those we serve at Marian House, will be able to expunge their records sooner and have access to the housing and employment they desperately need.

On behalf of the women we serve at Marian House, I respectfully urge you to take the call to action in **SUPPORT of HB660.**

Thank you for your support,

Katie Allston, LCSW-C
President and C.E.O.

HB 660 Expungement Convictions updated.pdf

Uploaded by: John Cox

Position: UNF

Bill Number: HB 660
Maryland States Attorneys Association
Opposed

WRITTEN TESTIMONY OF THE MARYLAND STATES ATTORNEYS ASSOCIATION
IN OPPOSITION TO HOUSE BILL 660
CRIMINAL PROCEDURE- EXPUNGEMENT- CONVICTIONS

The Maryland States Attorneys Association is opposed to House Bill 660 Criminal Procedure-Expungement-Convictions as it goes well beyond the currently existing laws which permit expungement of some convictions.

Criminal Law Article §10-110 was enacted as a part of the Justice Reinvestment Act in 2016 to permit expungement of guilty findings for a long list of crimes set forth in the statute. This was accomplished after a long, hard-working process by the Legislature in going through every crime for consideration to permit expungement. The Legislature understandably concluded that the availability of expungement should not extend to sex offenses and crimes of violence, for example.

This Bill would extend the availability of expungement to DUI's, First Degree Assaults, Armed Robbery and Carjacking. This is well beyond that which is reasonable. It is quite common that drunk drivers are not always caught and repeat drunk drivers are often caught with lengthy time periods between their offenses. This bill may prevent the public and a judge from knowing about the fact that the person has done this before.

It is even more distressing that, with this bill, a person can wipe clean from their record the fact that they have shot someone, pistol whipped another to rob them, or violently ripped a person from their car in order to take the car. Individuals convicted of such actions should be held to answer for their actions. Further, the public has a right to know that an individual has committed such an offense.

The Maryland States Attorneys Association asks for an unfavorable report.

hb660.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 660
Criminal Procedure – Expungement – Convictions
DATE: February 8, 2023
(2/23)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 660. This legislation authorizes a person to file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if the person is convicted of: §21-902 of the Transportation Article; §3-202 of the Criminal Law Article, if the crime did not involve domestic violence and the person has no other convictions; §3-403 of the Criminal Law Article; or §3-405 of the Criminal Law Article.

The Judiciary recognizes that setting the scope of expungable offenses is a legislative prerogative, but the decision impacts the Judiciary’s function insofar as possible expungement of more offenses—especially crimes of violence—deprives judges of relevant information that could be used to fashion proper sentences should a defendant incur a subsequent conviction. If expunged, this information would not be available to the sentencing judge. It is hard to understand how the court can make an informed decision without the benefit of access to a defendant’s history of any prior violent offenses. This would rob the courts of the ability to strike the optimal balance between punishment, deterrence and rehabilitation in future sentencing decisions, and public safety may be put at an increased risk as a result.

Moreover, certain offenses included in this bill -- armed carjacking, armed robbery, and first-degree assault – carry enhanced penalties for subsequent offenders. Specifically, pursuant to Criminal Law §14-101 individuals convicted of these “crimes of violence” are subject to increased penalties as second, third, and fourth offenders. It is hard to understand how the Judiciary could fulfill its obligation under this section without access to the prior conviction information. Additionally, if the weapon used during the armed robbery, armed carjacking, or first-degree assault is a firearm, an individual is often also charged with Use of a Firearm in the Commission of Violence. If so convicted, would the court expunge the armed robbery, armed carjacking, or first degree assault conviction but allow the Use of a Firearm in the Commission of that Crime of Violence to remain? How

would the court remove the underlying crime of violence information contained within that charge? It is unclear and logistically impossible.

In addition, there is no ability for the courts to consistently and accurately determine whether a prior crime involved domestic violence, as specified in the bill at Criminal Procedure § 10-110(a)(2)(iv). Various criminal offenses may involve domestic violence and the Judiciary has no way to determine that from the charge itself. Further, the crimes outlined in the bill typically are charged with other crimes that are not eligible for expungement which would make it impossible to expunge from charging documents, indictment, police records and the like.

cc. Hon. Tiffany Alston
Judicial Council
Legislative Committee
Kelley O'Connor

MCPA-MSA_HB 660 _Expungement - Convictions-OPPOSE.

Uploaded by: Natasha Mehu

Position: UNF



Maryland Chiefs of Police Association Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and
Members of the Judiciary Committee

FROM: Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 23, 2022

RE: **HB 660 Criminal Procedure – Expungement – Convictions**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** HB 660. This bill authorizes a person to file an expungement for felony convictions.

MCPA and MSA, while understanding the desire to provide a second chance for persons in certain circumstances, generally oppose legislation that increases the categories or timeframes for expungement because it could interfere with the necessary access to prior criminal information. In some instances, this could be a safety factor for law enforcement personnel in carrying out their official duties.

Each year, several pieces of legislation are introduced that seek to adjust the considerations and time frames under which expungement, pardons, or shielding can be sought. MCPA and MSA believe such changes require participation and input from the judiciary, prosecutors, and law enforcement and, rather than being dealt with in a piecemeal manner, should be addressed comprehensively in a process that involves all stakeholders and in a setting that is conducive to reasonable solutions while, at the same time, not affecting public safety.

For these reasons, MCPA and MSA **OPPOSE HB 660** and urge an **UNFAVORABLE** Committee report.

HB0660 - MVA - Expungement - Convictions - LOI_FIN

Uploaded by: Patricia Westervelt

Position: INFO

February 23, 2023

The Honorable Luke Clippinger
Chair, House Judiciary Committee
Room 101, House Office Building
Annapolis MD 21401

RE: Letter of Information – House Bill 660 – Criminal Procedure - Expungement - Convictions

Dear Chair Clippinger and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on House Bill 660 but offers the following information for the Committee’s consideration.

House Bill 660 makes alterations to an individual’s ability to pursue expungement of certain misdemeanor and felony records. Among those offenses in the proposed legislation is a violation of § 21-902 of the Transportation Article, which refers to driving under the influence of alcohol.

The MDOT Motor Vehicle Administration (MVA) maintains driving records that include notations of convictions for certain offenses. The maintenance and expungement of these driving records are controlled by the Transportation Article and by the Public Information Act.

Given current law, MDOT does interpret House Bill 660 as applying to records maintained by MVA; however, should that be the intent, this could potentially establish a conflict in its lack of clarity on scope of records. The MVA must maintain appropriate record keeping for drunk driving offenses as a component of its interstate driver’s compact and for federal purposes relating to commercial driver’s licenses.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating House Bill 660.

Respectfully submitted,

Christine E. Nizer
Administrator
Maryland Motor Vehicle Administration
410-787-7830

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090