
April 8, 2023

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

RE: Letter of Information – Senate Bill 505 – Criminal Procedure – Expungement and Shielding – Probation Before Judgement for Driving While Impaired or Under the Influence

Dear Chair Clippinger and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 505 but offers the following information for the Committee’s consideration.

Senate Bill 505 makes alterations to an individual’s ability to pursue expungement of certain misdemeanor and felony records, including offenses violating § 21–902 of the Transportation Article.

The MDOT Motor Vehicle Administration (MVA) maintains driving records that can include notations of convictions for certain offenses. The maintenance and expungement of these driving records are controlled by the Transportation Article, specifically § 12-111 through 12-113, 16-117, 16-117.1, and 16-819 (for commercial drivers), and by the Public Information Act.

Moreover, the record expungement provisions of Senate Bill 505 are found in the Criminal Procedure Article, Title 10, Subtitle 1. The scope of that subtitle can be found in § 10-102(a), which provides that “[a] police record or a court record is subject to expungement under this subtitle.”

Given the scope of Subtitle 1 noted above, and the specific expungement provisions in the Transportation Article applicable to Administration records, the MVA does not view the provisions of Senate Bill 505 as applying to records maintained by the Administration. Thus, MVA records would not be impacted by Senate Bill 505.

However, there is language in § 10-110 which creates a potential point of conflict with earlier definitions and scopes of Title 10 which could be confusing to customers. Specifically, § 10-110 adds “or other record maintained by the State or a political subdivision of the State.” Senate Bill 505 is written to then include § 21–902 of the Transportation Article within § 10-110. 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 MVA must be able to maintain these records and Senate Bill 505 could potentially establish a conflict in its lack of clarity on scope of records.

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The proposed changes to expungement eligibility in Senate Bill 505 pose a serious risk to the health and safety of all Marylanders. While measures such as the Ignition Interlock Program have proven to be effective at substantially reducing risks of recidivism, evidence from highway safety studies demonstrate that the risks posed by repeat offenders can span many years between convictions. Allowing the expungement of a prior conviction or probation before judgement offense for violations of § 21-902 of the Transportation Article could allow a repeat offender to avoid the escalating intervention imposed by repeat offenses and could have implications for federal funding. The proposed legislation thus presents a danger to those on Maryland's roadways.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating Senate Bill 505.

Respectfully submitted,

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