

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF HOUSE BILL 664:

Criminal Procedure – Expungement of Records – Good Cause

TO: Members of the Senate Judicial Proceedings

FROM: Christopher Dews, Policy Consultant

DATE: February 23rd, 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. We support **House Bill 664** 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 recidivism rates among returning citizens, with half of all returning citizens recidivating within three (3) years and 60 percent recidivating within five (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 a variety of laws that, in combination, prevent Marylanders from accessing the expungement services needed to reintegrate into society. First, 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

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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. 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.

Additionally, under current Maryland law [Criminal Procedure §10–107](#), charges that arise from the same incident, transaction, or set of facts are considered a ‘unit of charges’. If a person is not entitled to the expungement of one charge or conviction within a unit, the person is not entitled to the expungement of any other charge within the unit. This prevents charges that would be eligible for expungement from actually being expunged.

Lastly, suppose an individual receives a violation of parole or probation or manages to catch a subsequent conviction during the waiting period. In that case, the original charge becomes impossible to expunge even decades later. Criminal law attorneys, expungement lawyers, and even some judges decry their inability to dispense justice for clients because of the complex web of laws blocking expungement access indefinitely. A 2009 study funded by the National Institute of Justice examined more than 80,000 criminal records and found that there is a point in time when an individual with a criminal record is at no greater risk of committing another crime than other individuals of the same age. But with no access to expungement due to the blockades, proper reintegration into society is seemingly impossible.

House Bill 664 offers a clear, rational solution to the expungement access conundrum for millions of returning citizens, expungement lawyers, and judicial officials. It allows the courts to grant a petition for expungement at any time on a showing of good cause. Thus, the courts can use their judicial discretion in determining expungements, as [one judge did in Baltimore County, to get around the unit rule issue](#). This provision already exists in [Criminal Procedure §10–105 \(c9\)](#) but only applies to non-convictions and is rarely used. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in Maryland. For these reasons, we respectfully urge a favorable report of **House Bill 664**.

We’ve also been working with the bill sponsor on [amendments](#) to sharpen the scope of the bill and ensure that the court’s capacity and volume are taken into account regarding the proper implementation of the bill. Those amendments can be found [here](#).