

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Matthew Pipkin, Jr.
410-260-1561
RE: House Bill 746
Criminal Procedure – Expungement of Records – Waiting Period
DATE: February 14, 2023
(2/28)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 746. This bill repeals the waiting period for certain records under Criminal Procedure Article § 10-105. A petition for expungement based on a “not guilty” verdict, an acquittal, a nolle prosequi, or a dismissal may be filed immediately after the disposition. Currently, the filing for this petition could not occur until at least three years after the disposition. This bill also adds a prohibition that police or court records may not be expunged by obliteration until 3 years after the date of disposition of the charge.

The Judiciary opposes this bill given that it is not workable. This bill mandates courts to store separately in a secure area all records in cases in the last 3 years resulting in a not guilty verdict, an acquittal, a nolle prosequi, or a dismissal, as required in the bill at Criminal Procedure § 10-105(c)(1)(ii)2. During the 3-year period, the record shall be removed to a separate secure area to which a person who does not have a legitimate reason for access shall be denied. However, court records are all electronic in MDEC, except in Baltimore City. There is no way to segregate electronic records to a separate area. The bill does not seem to recognize that court records are not kept in paper form.

cc. Hon. Melissa Wells
Judicial Council
Legislative Committee
Kelley O’Connor