

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 854
Criminal Procedure – Expungement of Records – Revisions
DATE: February 15, 2023
(3/7)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 854. This legislation amends provisions in Title 10, Subtitle 1 of the Criminal Procedure Article for the purpose of expanding the scope of certain expungement provisions to include an investigatory file and law enforcement work product; providing that an expunged police/court record may not be used for any purpose and shall be treated as if the record never existed; repealing certain provisions of law authorizing a court to order the opening or review of an expunged record or the disclosure of information from an expunged record.

This bill alters the definition of “expungement.” In doing so, this proposed legislation, rather than make information unavailable to the public, will render data unavailable to judges, courts, clerks offices and detention centers who have a legitimate need and use for such information. For example, courts and state’s attorneys’ offices use information about prior offenses to determine a person’s eligibility for diversion programs. Detention centers use such information to classify inmates for risk assessments.

In addition, this would prevent a court from re-opening an expunged case for compelling reasons. An example of a need to re-open an expunged case would be where a disposition is needed for an immigration issue that arose after the case had been expunged. People facing immigration consequences may be negatively impacted in their immigration proceedings if they lack the ability to get favorable court records in a Maryland case.

This bill also 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.

cc. Hon. Dalya Attar
Judicial Council
Legislative Committee
Kelley O'Connor