

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF HOUSE BILL 746:

Criminal Procedure - Expungement of Records - Waiting Period

TO: Members of the Senate Judicial Proceedings and House Judiciary Committee

FROM: Christopher Dews, Policy Consultant

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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 746 as a means of reducing the impact of incarceration on lower-wage workers and eliminating barriers to employment.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. More than [85% of employers perform background checks on all job applicants](#) and deny employment to many citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Worse yet, in Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. Anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged. There is no valid reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequis- should visibly remain on the public record. However, Maryland's current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

In Maryland, charges that *did not* result in a guilty conviction (i.e. non-convictions) are eligible for expungement three (3) years *after* your case is decided. One may file for expungement earlier if they also sign a general release and waiver of all legal claims- preventing them from suing the police department for possible misconduct. 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 many non-convictions from being eligible for expungement via obliteration.

According to [Maryland Code, Criminal Procedure, §10-101](#), "Expunge" means to remove information from public inspection in accordance with this subtitle. Expungement, with respect to a court record or a police record, means removal from public inspection:

1. by obliteration;
2. by removal to a separate secure area to which persons who do not have a legitimate reason for access.

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While most are familiar with the first provision, only a few are familiar with the second, which is the bill's subject. In the past, the Courts and State's Attorney's Office have resisted non-conviction expungement efforts stating that they need access to the not-guilty charges for assessing future potential criminal charges. We believe that a rational compromise can be made wherein expungement via storage (provision #2) is used in the case of non-convictions during the three-year expungement waiting period. This way, only the courts will have legitimate access to the charges for proceedings related to that charge, and Marylanders not found guilty of a charge won't have it used against them.

House Bill 746 will accomplish this by removing acquittals, dismissals, and nolle prosequi charges from public view during the three (3) year waiting period in order to eliminate barriers to employment and public services. A criminal record for charges that have been dropped or voided in the court system should not prevent anyone from participating in Maryland's economy. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in Maryland. House Bill 746 does just that- it removes an unnecessarily punitive barrier to employment. For these reasons, we respectfully urge a favorable report of House Bill 746.