



**TESTIMONY IN SUPPORT OF HB 664 / SB 017**

**Criminal Procedure – Expungement of Records – Good Cause**

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

FROM: **Heather Warnken, Executive Director, Center for Criminal Justice Reform, University of Baltimore School of Law**

DATE: February 21, 2023

My name is Heather Warnken and I am the Executive Director of the University of Baltimore School of Law’s Center for Criminal Justice Reform. The Center is dedicated to supporting community driven efforts to improve public safety and address the harm and inequity caused by the criminal legal system.

In direct alignment with this mission, we are grateful for this opportunity to testify in support of HB 664 / SB 017, a direct mechanism for reducing the impact of incarceration and enhancing employment opportunities for lower income workers and job seekers throughout the state.

The impact of incarceration on individuals, families and communities is staggering, including the extensive list of collateral consequences that can follow a justice-involved individual for years, well after a case or period of incarceration concludes. These impacts span numerous areas central to a person’s ability to survive and thrive, impeding access to stable housing, education, healthcare, voting, occupational licensing, rights related to the parent-child relationship and more.

A [groundbreaking study published in the journal Science Advances](#) in 2022 sheds light on the staggering impact of a criminal record on employment prospects specifically - not just for individuals but for the economy as a whole.<sup>1</sup> The study found that the stigma of a criminal record runs deeper than had ever previously been quantified: finding that more than half of unemployed men in their 30s have criminal records. Among 35-year-old unemployed men, 64 percent have been arrested and 46 percent have been convicted of a crime. The population of unemployed Americans is “uniquely saturated with individuals who have histories of involvement with the criminal justice system,” the study notes.

Every year, the approximately 15,000 Marylanders released from state prisons face substantial hurdles to their successful reentry. One out of three Marylanders returning from incarceration return to Baltimore City where our center is located. It should light a fire under all of us to know that the racial disparities surrounding incarceration and the disenfranchisement it causes in this state are the highest in the nation: 72% of Maryland's prison population is black.

---

<sup>1</sup> <https://www.science.org/doi/10.1126/sciadv.abj6992>.



Given the substantial hurdles to successful reentry, high rates of recidivism should not surprise us. The Department of Justice has [found](#) half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years.<sup>2</sup> The inability of returning citizens to find a job is a substantial driver of this, with up to 60 percent of formerly incarcerated persons remaining unemployed one year after their release. These figures are evidence that the lack of support provided for individuals upon their release from incarceration bears negative effects on public safety. Efforts to lower the crime rate in our state must address the root causes. The current waiting period for expungement limits vital support for individuals navigating reentry into society, detrimentally impacting efforts to improve public safety.

Maryland has a variety of laws that, in combination, prevent residents from accessing expungement services that can make a significant difference in their ability to successfully reintegrate into society.

For example, Maryland has substantially longer waiting periods for expungement than most other states in the nation. [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 waiting periods are far longer than the actual sentence.

According to a [2022 report](#) from Collateral Consequences Resource Center (CCRC), 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah.<sup>3</sup> With regards to non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma.

Additionally, the “Unit Rule” prevents the expungement of a charge if 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, if an individual receives a violation of parole or probation or manages to catch a subsequent conviction during the waiting period, the original charge becomes impossible to expunge even decades later.

One commonsense way to address these challenges is through the exact type of solution posed in this bill. **HB 664 / SB 017** 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. This provision already exists in [Criminal Procedure §10–105 \(c9\)](#) but only applies to non-convictions and is rarely used.

For these reasons, we urge a favorable report.

---

<sup>2</sup> <https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-30-states-2005-patterns-2005-2010-update>.

<sup>3</sup> <https://ccresourcecenter.org/wp-content/uploads/2022/02/Waiting-Periods-Draft.2.22.21-2.pdf>.