



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and  
Members of the Judiciary Committee

FROM: Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 7, 2022

RE: **HB 854 - Criminal Procedure – Expungement of Records - Revisions**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE HB 854. This bill alters the definition of expungement, expands the scope of records that are expunged, and completely prohibits the use of expunged records.

While understanding the desire to provide a second chance for persons in certain circumstances, MCPA and MSA generally oppose legislation that increases the categories or timeframes for expungement because it could interfere with the necessary access to prior criminal information. In some instances, this could be a safety factor for law enforcement personnel in carrying out their official duties.

For police and court records before 1975 the expanded definition and protocols for expungement do not allow for the access or disclosure of expunged records at all. In fact, the bill removes provisions that exclude investigatory files and work products of police investigations from expungement. Officials are to act as if the expunged records do not exist.

Additionally, for all expungements, no one is allowed to review or disclose expunged records at all. Not even if the review or disclosure is court-ordered or if the expunged records are relevant to a criminal investigation. Review or disclosure is not even allowed if an investigation would be jeopardized or life and property are threatened without immediate access to the records. A person or entity initiating or defending a lawsuit would be prevented from retaining and using relevant and admissible evidence of the expungement relating to the litigation. An agency or person defending a suit must be allowed to both access and disclose the records relating to the incident to properly defend themselves. Under current law, records from before 1975 are expunged and are shielded from public view but still accessible to officials. The current process helps protect agencies, officers, complainants, victims, and witnesses from wrongful suits and allows them to present a meaningful defense.

532 Baltimore Boulevard, Suite 308  
Westminster, Maryland 21157  
667-314-3216 / 667-314-3236

The impacts of HB 854 go beyond litigation. Criminal background checks are mandated by law for many employment positions including public safety workers, teachers, childcare providers, health care workers, and many others. Criminal records checks are required for the licensing of firearms purchases, hazardous materials drivers, real estate brokers, liquor licenses, and others. Accurate criminal history records are needed for repeat offender sentencing provisions where criminal punishment is enhanced for subsequent violations. Current law ensures that records can be accessed for important criminal background and record checks. The expanded definition and protocols for expungement in the bill would undermine essential criminal background, record, and history functions.

Each year, several pieces of legislation are introduced that seek to adjust the considerations and time frames under which expungement, pardons, or shielding can be sought. MCPA and MSA believe such changes require participation and input from the judiciary, prosecutors, and law enforcement and, rather than being dealt with in a piecemeal manner, should be addressed comprehensively in a process that involves all stakeholders and in a setting that is conducive to reasonable solutions while, at the same time, not affecting public safety.

For these reasons, MCPA and MSA **OPPOSE HB 854** and urge an **UNFAVORABLE** Committee report.