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HB 943 Courts – Expunged Cases and Judicial Actions – Disclosure and Public Access
Hearing before the Senate Judicial Proceedings Committee, March 26, 2024
Position: FAVORABLE

HB 943 will allow public access to data concerning judicial proceedings regardless of whether the case records have been expunged. It will not allow public access to any personal or individual information from any expunged case records.

This bill is a simple measure with a critical purpose—to allow reliable, accurate data collection from Maryland’s judicial records in criminal proceedings. It is an important step to ensure accountability and transparency in our legal system.

In recent years, Maryland has made many advancements toward equity in our legal system, enacting numerous laws providing for expungement of criminal court records. These laws open doors to employment, housing, education, voting, and other aspects of civil society to individuals denied such access by records of prior criminal proceedings. In many such cases, there were no actual convictions, as a majority of charges brought are dismissed or result in acquittal. Expungement of such records and others that prevent full participation in daily life and opportunity for economic security and independence is essential to an equitable and just society.

The unintended consequence of these improvements in our criminal legal system, however, has been the erasure of accurate and reliable publicly available data on the workings of that system. Data collection, study, and research on our systems of government is critically necessary to our democratic institutions, including our courts. Without access to de-identified and/or aggregated data on the many cases that have been expunged, results of virtually any inquiry will be skewed to the point that no meaningful conclusions can be drawn.

Just a couple of examples make this clear: An attempt to determine the average length of pretrial detention on criminal charges subsequently dismissed over a period of prior years would not include data on all such matters since expunged, including many that were automatically expunged under recent law. It is even possible that no data at all would be available. This would prevent any understanding of how many Marylanders languish in jail while still presumed innocent—and for how long—only to be released weeks or months later with no trial at all. Likewise, determining the true disparate impact of virtually any element of the criminal legal system would be thwarted without access to this large and growing volume of court records.

Expungement is a significant advance toward equity in our legal system. Access to reliable data, including on expunged records (not including any personal information), is essential to sustaining and furthering that equity.

For the foregoing reasons, **the Public Justice Center urges a favorable report on HB 943.** Should you have any questions, please contact Debra Gardner, Legal Director, at 410-625-9409 x228 or gardnerd@publicjustice.org.

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