

2024-03-26 HB550 (Support).pdf

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Position: FAV

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March 26, 2024

TO: The Honorable Will Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Tiffany Johnson Clark
Chief Counsel, Legislative Affairs, Office of the Attorney General

RE: House Bill 550 – Criminal Procedure – Partial Expungement (**Support**)

The Office of the Attorney General (OAG) respectfully urges the Judicial Proceedings Committee to give House Bill 550 – Criminal Procedure – Partial Expungement sponsored by Delegate Nicole Williams a favorable report. House Bill 550 authorizes the partial expungement of eligible charges within a unit if one or more of the charges is ineligible and establishes procedural requirements for partial expungements.

Under current law, when a defendant has multiple counts or cases from the same incident, the defendant is only eligible for expungement if the entire “unit of prosecution” is eligible for expungement. For example, an individual is charged with drunk driving and illegal possession of a firearm. The individual goes to court and pleads to the firearm charge, but the State nolle prosses the drunk driving charge. The individual cannot expunge the otherwise-expungement-eligible nolle prossed drunk driving charge because it is from the same “unit of prosecution” as the nonexpungement-eligible firearm charge.

Without an opportunity to expunge a charge when the charge become eligible for expungement, additional barriers are created for individuals attempted to successfully reenter

society and their communities, such as: obtaining employment, housing, and other social services that have been shown to reduce recidivism rates. Studies show that obtaining employment after an individual is released from a correctional facility is a key factor in reducing recidivism.

For the foregoing reasons, the Office of the Attorney General urges a favorable vote on House Bill 550.

cc: The Honorable Nicole Williams
Judicial Proceedings Committee Members

HB 550 SB 11 Amendments.pdf

Uploaded by: Eric Gally

Position: FAV

Proposed Consensus Amendments for SB11/HB550

10-113. 20

(A) FOR PURPOSES OF THIS SECTION, “PARTIAL EXPUNGEMENT” MEANS THE ABILITY TO EXPUNGE A CHARGE OR CONVICTION THAT IS ELIGIBLE FOR EXPUNGEMENT WHEN TWO OR MORE CHARGES ARISE FROM THE SAME INCIDENT, TRANSACTION, OR SET OF FACTS AND ONE OR MORE OF THE CHARGES ARE NOT ELIGIBLE FOR EXPUNGEMENT UNDER THIS TITLE.

(B) FOR PURPOSES OF THIS SECTION, “AUTOMATED EXPUNGEMENT” MEANS IDENTIFYING ELECTRONIC RECORDS IN THE CENTRAL REPOSITORY, OR ANY SUCCESSOR DATABASE THAT SERVES THE SAME PURPOSE AS THE CENTRAL REPOSITORY, AND:

1. MARKING SUCH RECORDS FOR NON-DISCLOSURE TO THE PUBLIC IN A MANNER CONSISTENT WITH DEFINITIONS OF SHIELDING OR SEALING IN THIS SECTION, OR EXPUNGEMENT AS DEFINED UNDER TITLE 10 OF THE CRIMINAL PROCEDURE ARTICLE, SECTION 112.
2. NOTIFYING THE JUDICIARY AND PROSECUTING AGENCIES WHICH RECORDS HAVE BEEN IDENTIFIED AS ELIGIBLE AND MARKED FOR NON-DISCLOSURE TO THE PUBLIC IN THE CENTRAL REPOSITORY OR ANY SUCCESSOR DATABASE THAT SERVES THE SAME PURPOSE AS THE CENTRAL REPOSITORY.

(C) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND THE MARYLAND JUDICIARY MAY NOT ENGAGE IN ANY PROCUREMENT RELATED TO THE CENTRAL REPOSITORY, THE JUDICIAL CASE MANAGEMENT SYSTEM, OR ANY SUCCESSOR DATABASE THAT SERVES THE SAME PURPOSE AS THE CENTRAL REPOSITORY OR JUDICIAL CASE MANAGEMENT SYSTEM, INCLUDING PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES, SUPPLIES, SOFTWARE, OR EQUIPMENT, THAT IS NOT COMPATIBLE WITH THE PARTIAL EXPUNGEMENT OF CHARGES WITHIN A UNIT OF CHARGES OR AUTOMATED EXPUNGEMENT AS DEFINED IN PARAGRAPH (B) OF THIS SECTION.

HB 550 - Criminal Procedure - Expungement - Vendor

Uploaded by: Kam Bridges

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Testimony in Support of House Bill 550

Criminal Procedure - Expungement - Vendor Contracts

TO: Hon. William C. Smith, Jr., Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Job Opportunities Task Force

DATE: March 26, 2024

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-wage workers and job seekers in Maryland. **JOTF supports House Bill 550, which would allow for partial expungement for a certain eligible offense even if another charge arising out of the same incident, transaction, or set of facts is not eligible for expungement.**

The number of Americans with a criminal history is on the rise. More than one-third of the adult working-age population has a criminal record. According to the National Employment Law Project, 1 in 3 Americans (70 million) have an arrest record that will appear in a routine criminal background check in hiring. Nearly 1.5 million Marylanders struggle to secure employment with a criminal record. This challenge falls disproportionately on black and brown communities, the poor, and the homeless. Criminal records can serve as both the cause and consequence of poverty. Workers and job seekers with a criminal background apply for jobs for which they are well qualified, but are not considered due to criminal records. Technological advances have made access to criminal background information easier, which creates often insurmountable barriers to obtaining employment, housing, education, and other critical resources. It is well established that black men and women are more likely to be arrested and convicted than white men and women; and will be more likely than their white counterparts to have a criminal record. The impact of a criminal record is exacerbated among Black workers, who already experience racial discrimination in the labor market. Studies have found that even black job seekers without a criminal record are less likely to receive a job call back for an interview than white job seekers with a criminal record.

In an era of rising child care costs, ballooning health care costs, the ever increasing housing and rental markets, and prohibitively expense costs of higher education, having a well-paying job is a necessity. The days where financial freedom was accessible to a significant portion of Marylanders is long gone, and the percentage of Marylanders who can hope for even short term financial security is dwindling. Taking away the ability of Marylanders to access gainful employment will exacerbate every single issue that Maryland is struggling with, especially homelessness and public safety. When Marylanders cannot support themselves the only outcome is the deterioration of its people and the state as a whole. This is not a potential outcome; this is an inevitability.

In the past, the criminal justice system could be distilled to one phrase “You do the crime, you do the time.” The time was limited based on the nature of the offense. Once you completed your sentence, and paid your debt to society you were freed. There is no completing the sentence now. In 2024, anyone can access anyone’s criminal records in a smartphone within seconds. Easily accessible criminal records mean

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

that for impoverished individuals, once you finish your time in incarceration, your true sentence is only just beginning. And for thousands of Marylanders, that sentence is a lifetime of hardship and struggle which can be traced back to an inability to support themselves.

There is no reason to needlessly increase the burden of these Marylanders. Having just the inexpungible offenses on Marylanders' records is more than enough to ensure they face the consequences for their choices. Preventing eligible offenses from being expunged as well is needlessly cruel. It provides a negligible amount of increased accountability while being a significant hindrance for individuals to actually turn their lives around and refrain from the same actions that led to their incarceration in the first place. This helps no one, but hurts everyone.

For these reasons, JOTF supports House Bill 550 and urges a favorable report.

For more information, contact:

Kam Bridges / Senior Public Policy Advocate / Kam@jotf.org

NCADD-MD - 2024 HB 550 FAV - Partial Expungement -

Uploaded by: Nancy Rosen-Cohen

Position: FAV



Senate Judicial Proceedings Committee

March 26, 2024

House Bill 550

Criminal Procedure – Expungement – Vendor Contracts

Support

NCADD-Maryland supports House Bill 550. We believe ensuring the technology is in place to make the expungement process more efficient is important. NCADD-Maryland has long advocated for policies that help people involved with the criminal justice system avoid some of the unintended collateral damage caused by our drug policies. When people who struggle with substance use disorders get treatment and start the recovery process, criminal records are often huge barriers to success. Obtaining employment and housing is difficult, and sometimes impossible. Without a place to live or a reliable income, some people are much more likely to re-offend and/or return to alcohol and drug use.

House Bill 550 will require the Department of Public Safety and Correctional Services to engage a vendor in its Computerized Criminal History system modernization project that will ensure people who have more than one charge or conviction can have each evaluated and processed on its own in attempts to expunge them from a person's record. Treating the charges or convictions individually may allow some people to reduce the number of items on their records, reducing the discrimination that so often follows those who have been incarcerated.

These kinds of policy changes are a necessary component to significantly improving our communities. When people have served their time, they should have the opportunities and supports needed to ensure they are able maintain productive lives and livelihoods with their families. Removing some of the barriers to success will also help people with substance use disorders maintain their recovery.

We urge your support of House Bill 550 so the General Assembly is able to make meaningful policy changes.

HB0550_FAV_CFUF_CROSSOVER.pdf

Uploaded by: Christopher Dews

Position: FWA



TESTIMONY IN SUPPORT OF HOUSE BILL 550

Criminal Procedure - Partial Expungement

TO: Hon. William Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: Christopher Dews, Policy Consultant

DATE: March 26th, 2024

Crossover Testimony

The Center for Urban Families (CFUF) supports House Bill 550 as amended to conform to [Senate Bill 11](#), which [JPR voted out of committee on March 15th](#).

The amended language strikes the original bill and replaces it with the following language:

10–113.

20 (A) FOR PURPOSES OF THIS SECTION, “PARTIAL EXPUNGEMENT” MEANS
21 THE ABILITY TO EXPUNGE A CHARGE OR CONVICTION THAT IS ELIGIBLE FOR
22 EXPUNGEMENT WHEN TWO OR MORE CHARGES ARISE FROM THE SAME INCIDENT,
23 TRANSACTION, OR SET OF FACTS AND ONE OR MORE OF THE CHARGES ARE NOT
24 ELIGIBLE FOR EXPUNGEMENT UNDER THIS TITLE.

25 (B) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
26 AND THE MARYLAND JUDICIARY MAY NOT ENGAGE IN ANY PROCUREMENT RELATED
27 TO THE CENTRAL REPOSITORY, THE JUDICIAL CASE MANAGEMENT SYSTEM, OR ANY
28 SUCCESSOR DATABASE THAT SERVES THE SAME PURPOSE AS THE CENTRAL
29 REPOSITORY OR JUDICIAL CASE MANAGEMENT SYSTEM, INCLUDING PROCUREMENT
30 OF INFORMATION TECHNOLOGY SERVICES, SUPPLIES, SOFTWARE, OR EQUIPMENT,
31 THAT IS NOT COMPATIBLE WITH THE PARTIAL EXPUNGEMENT OF CHARGES WITHIN
32 A UNIT OF CHARGES.



Original Testimony

The Center for Urban Families (CFUF) advocates for legislative initiatives to strengthen urban communities by helping fathers and families achieve stability and economic success. CFUF supports House Bill 550 to repeal the “Unit Rule,” which has stood as a permanent roadblock to criminal record expungement.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment, housing, and educational prospects for the [estimated 25% of working-age Marylanders with a record](#) (pg.26). Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, [71% of Maryland's prison population is black](#) (pg.20), the highest in the nation, and [one out of three](#) Marylanders returning from incarceration return to Baltimore City, where CFUF is stationed. The Department of Justice has [found](#) high recidivism rates among returning citizens, with half of all returning citizens recidivating within three (3) years and 60 percent recidivating within five (5) years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: [over 60 percent of formerly incarcerated persons remain unemployed](#) one year after their release. This is mainly because more than [85% of employers perform background checks on all their job applicants](#) and deny employment to many returning citizens based on a record. A past criminal conviction of any sort reduces job offers by half. Thus, the ability to expunge a criminal record is vital for the economic viability of returning citizens *after* they have served their full sentence and completed mandatory supervision.

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 charges that would be eligible for expungement from actually being expunged. Even if the charges resulted in acquittals, dismissals, or nolle prosequi (i.e. “not guilty” verdicts), they would still be available via the Criminal Justice Information System (CJIS) and the Central Repository hosted within the Department of Public Safety and Correctional Services. If a potential employer, institution of higher education, department of licensure, or housing provider seeks to do a fingerprint background check, the full record (including non-convictions) within a unit would become available to them. Most individuals seeking background checks can not accurately distinguish between a conviction and a non-conviction, let alone understand the circumstances that led to a “guilty” verdict in the first place.

Law enforcement often takes a shotgun approach, charging individuals with a litany of crimes, estimating that at least one will stick or push a defendant to take a plea deal to lessen the penalty or incarceration length. Thus, there is no real way to know if the individual committed the crimes on the record, yet the litany of charges remains in CJIS for public view via a background check.



During the 2020 Legislative Session, the Maryland General Assembly passed [HB1336 \(Chapter 31 of 2021\)](#), limiting the Maryland Judiciary Case Search from referring to certain non-convictions but *not allowing* expungement for eligible charges within a unit. Thus, the unit rule remains the strongest barrier to criminal record expungement, ensuring that any involvement with the criminal legal system will scar them permanently, even if proven innocent of most charges.

For more than a decade, the courts have often argued that the repeal of the unit rule isn't possible due to the limitations of technology, yet have worked with savvy attorneys to manipulate non-expungeable dockets as was reported in [Deputy Winkler's Case](#) in 2020, where the Deputy 'disappeared' a rape charge against him that was part of a unit. Brian Thompson, his attorney, told [The Daily Record](#) that he has worked out similar plea agreements in previous cases involving sexual offenses [which are not expungeable]. He said he developed the idea of using plea deals to wipe out entire dockets 10 to 15 years ago to combat the "unfair nature of the expungement statute" because it does not allow for the removal of individual charges. If this can be done for law enforcement, which should be held to a higher standard as agents of justice, there must be a way for Maryland to allow for partial expungement for its citizenry.

House Bill 550 addresses the challenges associated with the 'unit rule' by providing for the 'partial expungement' of eligible charges within a unit of charges. CFUF fully supports efforts to remove barriers to employment, education, housing, and more for Marylanders saddled with arrests and overcharging. For these reasons, we respectfully urge a favorable report.

2024.03.25 HB 550 .pdf

Uploaded by: E. Flannery Gallagher

Position: FWA



TESTIMONY IN SUPPORT OF HOUSE BILL 550

Criminal Procedure – Partial Expungement

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law

DATE: March 25, 2024

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 inequities caused by the criminal legal system. The Center supports House Bill 550 with amendments. The Center supports amending House Bill 550 to conform with Senate Bill 11.

HPP HB 550 Unit Rule Testimony (JPR)- FWA.pdf

Uploaded by: Jessica Emerson

Position: FWA

Testimony of the Human Trafficking Prevention Project

BILL NO: House Bill 550
TITLE: Criminal Procedure – Expungement – Vendor
Contracts
COMMITTEE: Judicial Proceedings
HEARING DATE: March 26, 2024
POSITION: **FAVORABLE WITH AMENDMENTS**

House Bill 550, as amended, would require that any new system upgrades made by that the Department of Public Safety & Correctional Services allow for both automated and partial expungement of charges. The Human Trafficking Prevention Project supports this bill, but respectfully requests that the committee please conform House Bill 550 to Senate Bill 11, which includes updated procurement language, as well as language defining the term “partial expungement.”

In recent years, Maryland has shown its strong support for remedying the impact a deeply flawed criminal legal system has on the ability of its citizens to escape poverty and lead productive lives. HB 550, with amendments, would further this goal by moving Maryland closer to the availability of partial expungement in the state, which would significantly lessen the trafficking risk faced by sex workers and survivors of human trafficking alike. For these reasons, the Human Trafficking Prevention Project respectfully urges a favorable report with amendments on House Bill 550.

[The Human Trafficking Prevention Project](#) is dedicated to ending the criminalization of sex workers, survivors of human trafficking, and those populations put at highest risk of exploitation through access to civil legal services and support for policies that dismantle harmful systems and increase access to basic human rights and legal relief.

*For more information, please contact:
Jessica Emerson, LMSW, Esq.
Director, Human Trafficking Prevention Project
(E): jemerson@ubalt.edu*

Written Testimony - 2024 - HB 550 (partial expugne

Uploaded by: Mary Denise Davis

Position: FWA



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MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: HB 550- Expungement - Vendor Contracts

FROM: Maryland Office of the Public Defender

POSITION: Favorable, with amendment

DATE: March 25, 2024

“Partial expungement” has been a needed reform for quite some time under the current expungement statute. This reform has been introduced over many legislative sessions. One of the barriers has been that the current technology of both the Central Repository and Judicial System have not been able to expunge an otherwise eligible charge from the whole case and keep the remaining ineligible charges intact. The current technology appears to permit only all or nothing expungement which hurts Marylanders trying to move on from their past.

House Bill 550 requires the Central Repository to NOT engage in any procurement relating to the technology of creating, storing, or expungement charges and records unless that technology is compatible with partial expungement. This is a critical step towards ensuring just, effective, and fiscally responsible and efficient expungement processes in the future.

We encourage an amendment to House Bill 550 to not only define “partial expungement” but also to include the Maryland Judiciary in NOT procuring technology that does not support partial expungement.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report, with amendment on HB 550.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

**Authored by: Mary Denise Davis, Chief Attorney of the Pretrial Unit, Baltimore City
marydenise.davis@maryland.gov, 410-878-8150.**

HB550_JPR_FABwAmendment.pdf

Uploaded by: Zachary Alberts

Position: FWA



TESTIMONY IN SUPPORT OF HOUSE BILL 550:

Criminal Procedure - Partial Expungement

TO: Hon. Will Smith, Chair, and Members of the Judicial Proceedings Committee

FROM: Zachary Alberts, Director of Advocacy and Strategic Initiatives at the Center for Urban Families

DATE: March 25th, 2024

I am writing to support, with an amendment, House Bill 550. The Center for Urban Families is in support of House Bill 550, but believes the language should conform to that of Senate Bill 11, which uses the proper language to describe the procurement process and the definition of Partial Expungement.

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