



PREPARE
PREpare for PARole and REentry

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HBO550- Criminal Procedure - Partial Expungement - SUPPORT

People returning to the community after arrest, pretrial detention or incarceration face a monumental challenge. Often they are returning with no housing, no job, no transportation, and limited social support. PREPARE supports individuals through this process, and also employs 7 returning citizens (myself included) who face these challenges to varying degrees. I have seen my clients and coworkers turned away from housing, unable to find living wage work, and unable to meet their basic self care and transportation needs due to bias stemming from background checks. This is not only a problem for them and their families, but for all of Maryland as these pressures divide families, diminish social support, and increase poverty and recidivism.

The American Bar Association recently released its 2023 Plea Bargain Task Force Report.¹ In this 40 page report, they cited several reports including a Pew Research report that shows only 2% of federal cases go to trial² and several sources showing states hover around the same number. While some of the remainder result from dismissals or straight guilty pleas, the ABA task force reported that about 75% of this number resulted from a bargaining process - usually involving charge, sentence or fact bargaining, processes that leave that individual exposed to the unit rule and facing ongoing collateral consequences from serious charges that they were never convicted of and the facts may not support.

Charge bargaining is one of the most commonly used forms of plea bargaining, and involves the prosecutor bringing a large number of charges that carry an excessively high sentence (and sometimes an inflammatory nature) and then whittling them down

¹ American Bar Association, 2023 Plea Bargain Task Force Report,

<https://www.americanbar.org/content/dam/aba/publications/criminaljustice/plea-bargain-tf-report.pdf>

² John Gramlich, Only 2% of federal criminal defendants went to trial in 2018, and most who did were found guilty, Pew Research Center, 2019,

<https://www.pewresearch.org/short-reads/2019/06/11/only-2-of-federal-criminal-defendants-go-to-trial-and-most-who-do-are-found-guilty/>

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in exchange for a guilty plea. Of the 79,704 cases Pew studied, only 340 went to trial and were acquitted. That's just 0.4% of people going to trial and winning an acquittal, so it is immense pressure to take a plea to avoid a more serious charge. The result of this practice is an excessive and lingering list of charges that give the appearance of a significant criminal record when no such record exists. This is an undeclared, unsentenced, and excessively punitive outcome of a prosecutorial practice that has been publicly discouraged by the ABA but has not been outright prohibited.

Even in the case of a trial and an acquittal, the unit rule applies. That means even if someone is tried and found not guilty of a serious charge, but is found guilty of a less serious one, that serious charge sticks on their record, haunting them through job and rental applications. While it is impossible for a single legislative action to solve all of these problems, an important common sense first step is a favorable report on HB0550, which will free individuals from lifelong consequences stemming from charges they were never convicted of.