

SUPPORT HB 0073 – expungement

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



TO: Chair Luke Clippinger and House Judiciary Com.
FROM: Phil Caroom, MAJR Executive Committee
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Maryland Alliance for Justice Reform (MAJR - www.ma4jr.org) strongly supports House Bill 0073 to reduce the impact of incarceration by eliminating probation violations as a permanent roadblock to criminal record expungement. Here is why:

The Maryland appellate court's Abhishek ruling, in 2022, provided that any probation violation makes the original conviction *indefinitely* ineligible for expungement since the individual has not “satisfactorily completed the sentence” (regardless of the nature of the violation).

This decision functionally contradicts the evidence-based policies of Maryland's Justice Reinvestment Act (JRA) and every American drug court which recognize that a technical or trivial violation of probation should not block recovery and opportunity to regain status as a healthy, law-abiding citizen. Under the JRA, a “technical violation” of probation (not a new offense or absconding), at most, should be presumed to cause only a temporary and limited sanction – not a lifetime penalty. Under Drug Court practices, even a person who has slipped on one or a few occasions eventually may succeed and successfully complete a treatment program, then graduate and successfully complete their probation.

Also, since the Abhishek ruling, the Maryland General Assembly passed the REDEEM Act, which cuts the criminal record expungement waitings in half, allowing millions of Marylanders to seek relief sooner – only to discover that they are still barred due to the Abhishek ruling.

With the Abhishek ruling, even Marylanders with decades-old misdemeanor convictions now have no chance for expungement, impacting employment, housing, education, occupational licensing, and financing, if their violations of probation are for now-legal cannabis possession.

HB 0073 seeks to resolve this problem by providing eligibility's determination at “the **time when a sentence has expired**, including any period of probation, parole, or mandatory supervision,” and removing the term “satisfies” and “satisfactorily” from the expungement statutes.

Thus, once a person has served the entire sentence *and* finished the additional 5-10-year waiting period, they will be eligible for expungement *if* the charge is eligible. The State's Attorney's Office and the victim still retain the right to object to the expungement in accordance with Criminal Procedure §10–110 f(1). This is a rational and balanced approach to ensuring that the estimated 25% of working-age Marylanders with a record (pg.33) can receive the expungements necessary to allow them to properly reacclimate into society.

For these reasons, MAJR urges a favorable report on HB 0073

PLEASE NOTE: Phil Caroom offers this testimony for Md. Alliance for Justice Reform and not for the Md. Judiciary or any other unit of state government.