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CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 550
Criminal Procedure – Partial Expungement
DATE: January 31, 2024
(3/5)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 550. The legislation proposes to remove the current prohibition on partial expungements found in Criminal Procedure Article § 10-107, commonly referred to as the “unit rule” and permits under Criminal Procedure § 10-105 a person to file a petition for partial expungement when two or more charges arise from the same incident, transaction, or set of facts, and not all of them are eligible for expungement.

This bill is unnecessary. HB1336/20, codified at MD Code, Criminal Procedure, § 10-401, already prescribes that the Maryland Judiciary Case Search may not in any way refer to the existence of records of a charge in a case with electronic records if the charge resulted in: (1) acquittal; (2) dismissal; or (3) *nolle prosequi*, except *nolle prosequi* with the requirement of drug or alcohol treatment.

In addition, this bill is unworkable and would create a large fiscal impact on the Judiciary. As noted by the Judiciary in its comments to HB 1336 introduced during the 2020 session, this legislation would exponentially increase the number of charges that would be eligible and has the potential to result in a tremendous number of petitions for expungement. If this bill passes, tens of thousands of charges that historically have not

qualified for expungement – because there was a conviction or because the charge was one of a unit of charges and all do not qualify for expungement – would now qualify for expungement. The bill appears to be retroactive and could include any charge since the District Court was established in 1971, as well as circuit court expungements going back even further.

Additional staff will be necessary in the District Court and circuit courts to accomplish the increase in workload. To support the implementation of House Bill 550, the Judiciary estimates that **18** new full-time District Court clerks and **3** circuit court clerks would be required. The total of new positions will result in approximately **\$1,397,869** in additional personnel costs and other operational expenses in the first full fiscal year which has not been budgeted for within the Judiciary.

In addition, the bill requires the court to hold a hearing when the State’s Attorney objects to an application for a partial expungement when it is impracticable because the statement of charges contains charges that are both eligible and not eligible for expungement; and upon the court’s finding in paragraphs 1-3, the bill may require the expungement of “all police records, court records, and other records” that contain charges that are not eligible for expungement. Expunging charges that are not eligible for expungement would impact the judge’s ability to weigh the particular facts and circumstances of a case when crafting sentences and in decisions regarding bail.

Finally, the shielding aspect of the bill creates issues for post-conviction proceedings—there is no way to parse a post-conviction file between expunged and not expunged material, and expungement deprives a judge of information needed for a holistic understanding of a case.

cc. Hon. Nicole Williams
Judicial Council
Legislative Committee
Kelley O’Connor