

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Testimony in Support of House Bill 523

Criminal Procedure – Expungement of Records – Good Cause

TO: Hon. Luke Clippinger, Chair, and Members of the House Judiciary Committee

FROM: Job Opportunities Task Force

DATE: March 5, 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 523, which would allow the court to grant a petition for expungement upon a showing of good cause.**

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the estimated 25% of working-age Marylanders with a record. 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, the highest in the nation, and one out of three Marylanders returning from incarceration return to Baltimore City. 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 of 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. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. A 2015 Manhattan Institute study revealed that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

The passage of the Redeem Act significantly reduced the waiting periods for nonviolent misdemeanor convictions and nonviolent felonies to five years and seven years. However, for those with a criminal record, even five years is a relatively long period of time to navigate the increased barriers to education, employment, housing, public assistance, and much more. Additionally, 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.

Lastly, if an individual receives a violation of parole or probation or has a subsequent conviction during the waiting period, the original charge becomes impossible to expunge even decades later. Criminal law attorneys, expungement lawyers, and even some judges decry their inability to dispense justice for clients because of the complex web of laws blocking expungement access indefinitely. A 2009 study funded by

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

the National Institute of Justice examined more than 80,000 criminal records and found that there is a point in time when an individual with a criminal record is at no greater risk of committing another crime than other individuals of the same age. But with no access to expungement due to the blockades, proper reintegration into society is seemingly impossible. House Bill 523 offers a clear, rational solution to the expungement access conundrum for millions of returning citizens, expungement lawyers, and judicial officials. It allows the courts to grant a petition for expungement at any time on a showing of good cause. Thus, the courts can use their judicial discretion in determining expungements. This provision already exists in Criminal Procedure §10–105 (c9) but only applies to non-convictions and is rarely used. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in Maryland.

For these reasons, JOTF supports House Bill 523 and urges a favorable report.

For more information, contact:

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