



## TESTIMONY IN SUPPORT OF HOUSE BILL 73

### **Criminal Procedure - Expungement - Completion of Sentence**

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

FROM: Christopher Dews, Policy Consultant

DATE: March 5th, 2024

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 73, which reduces the impact of incarceration by eliminating probation violations as a permanent roadblock to criminal record expungement.

In 2022, the [Court of Special Appeals ruled](#) that any probation violation means a conviction is *indefinitely* ineligible for expungement under a legal interpretation that a violation means that the individual has not “satisfactorily completed the sentence” (regardless of the nature of the violation) Criminal Procedure under §10–105 and §10-110. The case under question, colloquially known as the [Abhishek Case](#), involved a gentleman placed on one year of supervised probation for pleading guilty to a misdemeanor theft charge of under \$500 in 2008. During his probation, he was arrested for cannabis possession (now legal in Maryland), sentenced to four days’ incarceration, and had his probation closed “unsatisfactorily.”

In December 2020, now *12 years* after the initial conviction, he filed to expunge the misdemeanor - having waited for the required 10 years under [Criminal Procedure §10–110 c\(1\)](#) but was informed that he did *not* qualify for an expungement since he did not satisfy the sentence and probation imposed. After appealing his case, the court ruled that *any* probation violation makes the conviction, regardless of the time passed, the nature of the conviction, or the person’s success at rehabilitation, *permanently ineligible* for expungement. Due to this ruling, he and *every* Marylander with decades-old misdemeanors have no access to expungements, impacting their ability to secure employment, housing, education, occupational licensing, and financing, even though he was violated for cannabis possession which, since legalization, has brought [\\$700 million to the state in just one year](#).

Since this ruling, the Maryland General Assembly passed the [REDEEM Act](#), which cuts the criminal record expungement waiting time in half. This allows millions of Marylanders to seek relief sooner, only to discover that they are still barred due to the Abhishek ruling.

House Bill 73 seeks to resolve this by altering the expungement criteria to be accessible at “the **time when a sentence has expired**, including any period of probation, parole, or mandatory supervision,”



removing the term “satisfies” and “satisfactorily” from the expungement statutes. This means that 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\(1\)](#), leaving the courts to make the final decision as to whether or not the expungement is in the interest of justice as opposed to a blanket ban on all violations. We see this as 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 reacclimate into society properly. For these reasons, we urge a favorable report.