



## MARYLAND STATE'S ATTORNEYS' ASSOCIATION

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Rich Gibson  
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March 11, 2024

Re: House Bill 523

Mr. Chair:

You may recall on March 5, 2024 a hearing was held before the Committee regarding House Bill 523 Criminal Procedure-Expungement of Records-Good Cause. It was discovered during the hearing that the Bill had been amended and that the Maryland State's Attorney's Association (and apparently the members of the Committee) were unaware of the amendments. The Chair indicated that the representative of the State's Attorney's Association would be provided with a copy of the amendments and given time to respond or address the amendments in writing. We ask that this submission be provided to the members of the Committee in the event that this Bill is considered by the Committee.

The amendments to the Bill completely remove all of the substantive portions of the original bill. It is no longer an effort to amend Criminal Procedure §10-110 and is instead a proposal to create a whole new statute. That new statute appears to create the right to the expungement of any crime at any time after the sentence for the crime has been completed. All that the petitioner is required to do is convince a Judge that there is good cause to do so with consideration of the factors listed at subsection B of the newly created statute. It is not clear if a hearing is required and there is nothing setting forth the process in which the petition would be addressed. There is nothing addressing the ability of the State to participate in the process and there is nothing granting any input or rights to the victims in this very rudimentary and bare bones Bill.

This Bill as amended would appear to grant the ability to a person to expunge absolutely any crime of which they have been convicted. A person convicted of First Degree Murder, Rape, Sexual Abuse of a Minor, Distribution of Child Pornography, Armed Carjacking and so many more outrageous crimes will be able to ask to expunge their record as soon as they complete their sentence. This is unquestionably not what the public wants and clearly will pose a great danger to the citizens of this State.

In the Justice Reinvestment Act in 2016, the General Assembly extensively changed the criminal justice system with an eye to restorative justice including an aim to continue to protect the public by still requiring accountability for the actions of those who commit crime. Within

that structure, the General Assembly greatly expanded expungement opportunities by allowing expungement of guilty findings for a long list of crimes including some felonies. This was done by looking at and determining which crimes could be acceptable for expungement if factors similar to those in the amended bill were met. There was also a time frame established when eligibility for expungement would start for those crimes. In 2023, through the Redeem Act, the General Assembly elected to lower the time frames after assessing the appropriateness of doing so. Also, there have been a small number of crimes which were added to the original list of eligible crimes. This Bill would be a radical departure from those efforts and would totally remove the purpose and use of §§10-105 and 10-110 of the Criminal Procedure Article. This Bill does not even prohibit expungement if the person chose to commit more crimes after the conviction requested to be expunged.

The public may be unable to know that a person previously convicted of Murder lives next door, a Day Care Center may not know about the Sexual Abuse of a Minor conviction of a job applicant, the purpose of the Sex Offender Registry could be gutted. The Judges will be deprived of knowledge of the prior serious record of an offender if that person chooses to kill, rape or rob another if they manage to expunge their prior violent conviction after they have finished their sentence.

It is worthy to note that the Fiscal and Policy Note posted by the Department of Legislative Services is still directed at the original bill and does not address the amendments. With the amendments, every crime ever committed in the State of Maryland is eligible for expungement. It is impossible to argue that there will not be a flood of petitions with passage of this bill which will continue at incredibly high volume in perpetuity. If a hearing before a Judge is required this would overwhelm the Judiciary and create a huge fiscal note. The cost for the Agencies involved in the expungement process would also be very large.

The original House Bill 523 was one which should not be given a favorable report as noted in the original written and oral testimony of the State's Attorney's Association. This amended Bill would be a disaster for the community and endanger the lives and safety of the citizens of this State. We urge an unfavorable report.

Sincerely,

A handwritten signature in black ink, appearing to read 'John P. Cox', written in a cursive style.

John P. Cox  
Deputy State's Attorney  
For Baltimore County