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JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 398
Criminal Procedure – Automated Expungement
DATE: January 29, 2025
(2/5)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 398, as drafted. The Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such matters, but notes issues of concern with operational aspects of the bill as drafted.

The use of the term “disposition” on page 2, lines 12 through 14, is unusual in that it is not specifically defined and differs from the current law’s standard of “completion of sentence.” It is unclear if the intent is to allow for an expungement in instances in which a court has disposed of a case in any way or only after an individual has completed their sentence. The term disposition could be used in instances in which the court has issued an order but the case or sentence remains outstanding, such as cases where there is an outstanding warrant or cases in which a consecutive sentence was imposed. Calculating the time from disposition in those instances is unclear under the current draft.

This bill would also have a significant operational impact on the Judiciary. The identification of eligible dispositions would require a manual review by the Judiciary and the statute does not provide a mechanism to make such eligibility determinations. Clerks are generally unable to make such legal determinations and, as such, it would require judicial review. This would require an individual judicial review in each instance given

the multi-step eligibility determination provided in the legislation. Moreover, the identification process for eligible charges will be complex for any case with more than one charge requiring a multi-point verification on eligible cases due to the exceptions listed in Criminal Procedure section 10-105. Another complexity arises with the need for different reports based on the types of charges involved in a case. For example, if a case contains both criminal charges and a Driving Under the Influence (DUI), the DUI is not eligible for 15 years. Programming would need to evaluate if a DUI exists as a related charge, and then make that the "lead" charge for the sake of expungement.

Finally, if this legislation is interpreted to apply to historical charges, this legislation would result in a substantial increase in the number of expungements, which would require additional staffing. There will be a significant operational impact on the clerk's office to manually review eligible cases to make sure all eligibility criteria are met prior to an eligibility determination. There will also be a significant operational impact on judges to make final eligibility determinations to produce the required monthly report.

cc. Hon. Mike McKay
Judicial Council
Legislative Committee
Kelley O'Connor