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POSITION ON PROPOSED LEGISLATION

BILL: SB0398 Criminal Procedure – Automatic Expungement

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/5/2025

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on Senate Bill 398. Expungement of a criminal record restores access to work, housing, and other basic needs after someone has served their time without a new conviction after the designated waiting period. The complexities of determining whether a conviction is eligible and the process for filing a petition result in many individuals not pursuing this remedy and remaining hampered by their prior criminal record. Senate Bill 398 will streamline the process to provide automatic removal of eligible cases from the Central Repository and electronic court records.

Senate Bill 398 does not expand the list of eligible convictions nor alter the criteria for eligibility. Rather, it streamlines the process for removing access to this information by employers, housing providers, licensing agencies, and others who may restrict opportunities based on a criminal conviction. It does so after a lengthy period of time (beyond when expungement is first available) to remove any heightened risk of recidivism.

The eligible convictions do not stem from violent or serious offenses. Rather, they are misdemeanors that disproportionately impact people with a psychiatric concern, a substance use disorder, and/or abject poverty. Automatically expunging their records can be particularly impactful to promote stability for these exceptionally vulnerable individuals. As Black and Brown individuals are disproportionately brought into the criminal legal system and face disparities throughout the process, automatic expungement is an important racial justice measure.

While promoting the removal of barriers caused by misdemeanor convictions, SB 398 seeks to balance the concerns of non-citizens, for whom destruction of these records could have significant immigration consequences. The bill does not require obliteration, although it is unclear whether the option of obliterating remains. OPD would recommend adding a provision to allow a non-citizen defendant or their attorney to obtain their own expunged records upon written request to the clerk, without requiring a judge's good cause finding.

The Clean Slate bill has the ability to help many impacted individuals. It's an important piece of legislation that will streamline the process and encourage opportunities that promote a productive law-abiding lifestyle.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 398.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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