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Testimony from:

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Testimony in Support of MD SB 398: “Criminal Procedure – Automated Expungement (Maryland Clean Slate Act)”

February 5, 2025

Maryland Senate Judicial Proceedings Committee

Chairman Smith and members of the committee,

My name is Sarah Anderson, and I am the associate director of criminal justice and civil liberties policy at the R Street Institute, a nonprofit, nonpartisan public policy research organization. We engage in policy analysis and outreach promoting free markets, and limited, effective government in a variety of policy areas, including criminal justice and civil liberties issues. We have a particularly vested interest in creating a system that holds offenders accountable to their actions, yet still allows for successful rehabilitation and an opportunity to truly leave life’s mistakes behind when earned. This is why we have a strong interest today in Senate Bill 398, also known as the “Maryland Clean Slate Act.”

Under this proposed legislation certain criminal records would be automatically expunged after a designated amount of time has passed, depending on the offense, and provided the individual has satisfied all of the requirements of their case.¹ It is important to note that the bill does not require the physical destruction of the records, rather it shields them from public view. Expunged records remain available to certain government entities when necessary.

Specifically, the legislation would require the judiciary to identify and shield from public view the records of individuals who have non-convictions and/or arrests after three years have passed, as well as the records of individuals who have eligible misdemeanors after seven years have passed. Thereafter, the judiciary would be required to identify new eligible cases each month and notify the Department of Public Safety and Correctional Services, which would then shield these new eligible records within thirty days of the notification. This creates a perpetual automatic expungement process.

¹ Maryland General Assembly, 2025 Legislative Session, Senate Bill 398, Last Accessed January 31, 2025.
<https://mgaleg.maryland.gov/2025RS/bills/sb/sb0398F.pdf>

Research proves that individuals who remain crime free for five to seven years without further offenses, are no more likely to reoffend than those without a criminal record, making this legislation a sensible, evidence-based policy.^{2,3} Additionally, those who have arrest or non-conviction records and are innocent in the eyes of the law and of their peers should certainly not have records following them around.

To grasp the importance of shielding criminal records from the public after individuals remain crime-free for a set period, one must understand the lasting consequences and barriers faced by those with records, even years after completing their sentence.⁴ One of the greatest challenges faced by people with criminal records—affecting nearly 22% of Maryland's adult population—is the enduring hurdle to basic life necessities such as employment, housing, and education.⁵ In fact, there are more than 40,000 state and federal regulatory and legal restrictions that limit opportunities for those with criminal records with regards to employment, business and licensing, housing, and education, among other things.⁶ These create negative outcomes for those impacted. For example, 94 percent of employers use background checks when hiring, and an arrest or conviction record reduces the chances of a callback or job offer by nearly 50 percent.^{7,8}

While petition-based record sealing already exists in Maryland, it is severely underutilized.⁹ The novel aspect of this legislation is the automation of the process, so that everybody who is eligible will have their record sealed. Currently, while 40 percent of those with criminal records in Maryland are eligible for petition-based sealing, less than 2 percent of those eligible have obtained one, due to the onerous process or simply because they do not know they are eligible to have their record sealed.^{10,11}

² Alfred Blumstein and Kiminori Nakamura, "'Redemption' in an Era of Widespread Criminal Background Checks," National Institute of Justice Journal, 263 (June 2009). <https://www.ojp.gov/pdffiles1/nij/226872.pdf>

³ J.J. Prescott and Sonja B. Starr, "The Power of a Clean Slate," *Regulation* 43:2 (Summer 2020) pp. 28-34. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=3474&context=articles>

⁴ Gary Hunter, "Destined to Fail: the Negative Effect of Collateral Consequence Laws," *Prison Legal News*, August 10, 2016.

<https://www.prisonlegalnews.org/news/2016/aug/10/destined-fail-negative-effect-collateral-consequence-laws/>

⁵ "Clean Slate in Maryland," The Clean Slate Initiative, 2025. <https://www.cleanslateinitiative.org/maryland#factsheet>

⁶ "A Re-Introduction to the National Inventory of Collateral Consequences of Conviction (NICCC) and the Clean Slate Clearinghouse," Bureau of Justice Assistance: National Reentry Resource Center, April 12, 2023. <https://nationalreentryresourcecenter.org/multimedia/re-introduction-national-inventory-collateral-consequences-conviction-niccc-and-clean>

⁷ Ariel Nelson, "Broken Records Redux: How Errors by Criminal Background Check Companies Continue to Harm Consumers Seeking Jobs and Housing," National Consumer Law Center, December 10, 2019. <https://www.nclc.org/resources/report-broken-records-redux/>

⁸ Devah Pager, et al., "Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records," American Academy of Political and Social Science, 623:1 (May 2009), pp. 195-213. <https://pubmed.ncbi.nlm.nih.gov/23459367/>

⁹ Jack Ford, "Maryland Clean Slate Act Proposed to Streamline Record Expungement Process," WBOC, February 21, 2024. https://www.w boc.com/news/maryland-clean-slate-act-proposed-to-streamline-record-expungement-process/article_9590afea-d10a-11ee-b523-d3ed4fb4d74e.html

¹⁰ "Clean Slate in Maryland," The Clean Slate Initiative, 2025. <https://www.cleanslateinitiative.org/maryland#factsheet>

¹¹ "The Maryland Second Chance Expungement Gap," Paper Prisons, <https://paperprisons.org/states/MD.html>

This is why the automated sealing process set up in this bill is critical to achieving positive outcomes.

Comparable automated record sealing laws have been passed in 12 other states since 2018, and survey data indicates that those who have had their records sealed are already benefiting dramatically from the policy, particularly relating to factors that reduce reoffense rates, such as employment, housing, and education.^{12,13} Of those who received automated record relief in Michigan, Pennsylvania, and Utah, 42 percent report improvement in work, employment, personal finances, or public assistance, 24 percent report improvement in housing, and 22 percent report improvement in education. More holistically, 35 percent report improvement in personal and family relationships, and 34 percent report improvement in health, mental health, or self-esteem. All of these factors not only improve the lives of those with the criminal record, but also the lives of those around them, their broader community, and the state overall.

Senate Bill 398 offers a chance to bring the benefits of clean slate legislation to the state of Maryland. For all these reasons, we strongly support SB 398 and urge the committee to issue a favorable report.¹⁴

Thank you,

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¹² “The Impacts of Clean Slate Laws in Pennsylvania, Utah, and Michigan,” The Clean Slate Initiative, October 30, 2024. <https://www.cleanslateinitiative.org/research-data-publications/yougov-survey-report>

¹³ Amy L. Solomon, et al., “Understanding the Challenges of Prisoner Reentry,” The Urban Institute, March 24, 2006. <https://www.urban.org/research/publication/understanding-challenges-prisoner-reentry>

¹⁴ Christi Smith, “The Pathway to Prosperity: How Clean Slate Legislation Enhances Public Safety and Stimulates the Economy,” *R Street Policy Study* No. 279, March 2023. <https://www.rstreet.org/research/the-pathway-to-prosperity-how-clean-slate-legislation-enhances-public-safety-and-stimulates-the-economy/>