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Bill Number: SB 525

Position: Unfavorable

WRITTEN TESTIMONY OF THE MARYLAND STATE'S ATTORNEYS'
ASSOCIATION IN OPPOSITION TO SENATE BILL 525
CRIMINAL PROCEDURE - EXPUNGEMENT OF RECORDS – GOOD CAUSE

The Maryland States Attorneys Association is opposed to Senate bill 525, Criminal Procedure-Expungement of Records – Good Cause and asks for an unfavorable report.

In 2016, the Maryland Legislature embarked on a mission and project which became the Justice Reinvestment Act. Included within this extensive package aimed at addressing the criminal justice system, as it existed, was a major change and expansion of expungement availability for those intent on first paying their debt to society but then intent on making a future for themselves without the constraint of a criminal record. In doing so, however, the Legislature was cognizant of and created statutes which still required some accountability and protection of society. This Bill will take us beyond consideration for some accountability and provide little ability to protect society from those who choose to repeatedly commit offenses. In 2023 the General Assembly lowered the waiting period even more than previously established.

Senate Bill 525 would effectively remove all of the substantive portions of the expungement statutes. It is not 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 misdemeanor after five years and any felony after seven years from the completion of the sentence. 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 E of the newly created statute. The bill would require a hearing for every petition filed. 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 process.

This Bill as amended would appear to grant the ability to a person to expunge absolutely any crime of which they have been convicted simply upon the very generic phrase of “good

cause.” 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 within seven years of the completion of 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.

With this Bill, 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. With a hearing before a Judge being required for every request 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.

Senate Bill 525 would be a disaster for the community and endanger the lives and safety of the citizens of this State. We urge an unfavorable report.