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POSITION ON PROPOSED LEGISLATION

BILL: SB0320 – Criminal Procedure - Expungement - No Finding and Case Terminated Without Finding

FROM: Maryland Office of the Public Defender

POSITION: Favorable with Amendments

DATE: February 3, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report with amendments on SB 320.

This bill clarifies that a non-conviction – including a charge that resulted in no finding or was terminated without any findings – does not trigger the “unit rule,” leaving otherwise eligible charges or convictions expungable. This bill limits the impact of the “unit rule,” which currently prohibits individuals from expunging otherwise eligible offenses from their record if any conviction within the “unit” is not expungable. OPD supports this bill because its modest, common-sense update will prevent a small number of individuals from having to carry records blemished by accusations which resulted in no court finding – and thus preventing unfounded barriers to employment, education, and housing that can follow from having such unproven accusations remain public.

Presently, the “unit rule” results in some unproven charges remaining visible on an individual’s record for years (if not permanently), by preventing the expungement of all convictions within a “unit” if a single one is not expungable. This outcome is damaging enough when it concerns one otherwise eligible conviction that cannot be expunged due to another conviction. However, “unit rule” expungement bars are especially illogical when the situation is precisely the opposite – when no finding was made or a case was terminated, yet the individual is shut out of the expungement process because one or more counts in the unit was for an ineligible offense and the result is not immediately clear. Critically, the expungement eligibility of an offense is not directly tied to its level of seriousness or culpability. Because the current expungement framework requires a conviction to be specifically legislated as eligible to be included among the list of nearly 100 offenses in Criminal

Procedure Section 10-110, there are many low-level misdemeanor and even traffic offense convictions which remain ineligible to date – to name a few surprising examples: reckless driving, trespass by refusal to leave private (or public) property, and keeping a disorderly house are all presently not expungable. And of course, more serious offenses are even less likely to have been designated as expungable, while carrying a more significant impact on bias and public opinion. This system results in a confusing maze of eligibility for courthouse staff and especially would-be petitioners to navigate. SB 320 helps to reduce these complications by confirming that charges which were terminated or had no court findings are explicitly outside of this maze and *can* be expunged.

The aim of this bill ultimately aligns with due process. A cornerstone principle of our justice system is that every defendant is presumed innocent until proven guilty – and in criminal cases, proven guilty beyond a reasonable doubt. The status quo – denying expungement eligibility for a rare group of dispositions which concluded without a court finding – cuts against that spirit and prevents individuals from being able to move forward free from the burden of an unproven allegation.

Reinforcing this bedrock principle is especially critical in the realm of expungement. While we expect that actors within the court system are familiar with the nuances of various dispositions and will not grant an inappropriate level of weight to a non-conviction, that becomes a far less simple or reliable assumption in the court of public opinion. The mere appearance of a charge for “burglary” or “theft” or any other criminal offense in a background check for a job or housing application can spell the end of that request – even when the charge clearly ended in an acquittal. The risk that bias, unwarranted assumptions, or flat-out mistake might irredeemably infect an applicant’s chances of success is even more grave when the final disposition is something less common but no more indicative of guilt – including the no-finding dispositions that this bill targets, which are legally a non-conviction in line with an acquittal by a judge or jury. However, the added layers of unfamiliarity and potential confusion that come along with a no-finding disposition make it especially important to be clearly included in expungement statutes, so that individuals can move forward with an accurate record, free from potential misperceptions.

While OPD supports SB 320 on its own terms, the agency advocates for amending the state’s underlying expungement process to eliminate the issues caused by permitting the “obliteration” of records. Presently, Section 10-101 of the Criminal Procedure Article defines “expungement” as removal from public inspection by any of 3 possible methods: obliteration, removal to a separate

secure area, or partial access. Unfortunately, after expungement under the current system, individuals are occasionally flagged by third-party background checks or federal law enforcement systems (including immigration databases) as showing “no result” for a case that followed an arrest or filed charge (and creating an incorrect impression that it remains a “pending” matter), rather than accurately deducing that the matter was concluded and expunged (and thus should not be included in the report at all). Impacted individuals can attempt to correct this error and remove themselves from this frustrating purgatory by obtaining a certified record of the case file from the court – however, this becomes impossible in instances of “obliteration.” Until the legislature ends this unintentionally damaging obliteration option, expanding the availability of expungement will also expand the number of individuals who are harmed by having their court records obliterated, rather than sealed and removed from public access. Additionally, OPD encourages the legislature to explicitly codify a right of action allowing any individual to request certified copies of their own court records, whether expunged or not, to protect residents whose background checks continue to erroneously list expunged matters as pending, without burdening petitioners or courts with a time-consuming “good cause” showing and court order requirement.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report with amendments on SB 320.

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