



Maryland Crime Victims' Resource Center, Inc.

Continuing the Missions of the Stephanie Roper Committee and Foundation, Inc.

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LETTER IN OPPOSITION TO SENATE BILL 0483

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The Maryland Crime Victims' Resource Center (MCVRC) urges an unfavorable vote on SB 483.

Senate Bill 483 will automatically eliminate most criminal disposition records after 7 years, and does so while violating the crime victims' right to be heard and participate.

There is currently a detailed expungement statute in Maryland law, Criminal Procedure Article §10-110. It lists the various crimes for which expungement is available if a court makes findings, at least 5 years after the completion of any sentence and after notice and an opportunity to comment by the State and the crime victim. The expungement must note whether the charged person has paid all monetary restitution that was ordered, is not a risk to public safety, and that expungement is in the interest of justice.

Senate Bill 0483 proposes to do away completely with the court's case-by-case review.

It eliminates the State and crime victim's opportunity to be heard.

It makes expungement from the Central Repository of the Department of Public Safety and Correctional Services in most instances automatic starting 7 years after the original disposition.

This bill has several serious flaws. First, it would expunge records of offenders who had not yet completed their sentence, either because they were still serving their sentence or if released, had not paid their court ordered restitution. This expungement from the records would also make it more difficult, if not impossible, for crime victims to determine if an offender was still incarcerated. Victims would be deprived of the proof and details necessary to enforce restitution that was ordered and not paid, as provided by Maryland Code, Criminal Procedure Article § 11-616. In addition, the current Maryland law gives crime victims an opportunity to be heard and object before courts act on expungement requests. This bill curtails current victims' statutory rights to be heard on any issue such as unpaid restitution, thus eliminating the ability to receive full restitution before expungement is authorized.

The Supreme Court of Maryland in *Syed v. Lee*, 488 Md. 537, 607-608 (2024) declared that victims' current statutory rights may not be narrowed by the General Assembly but only by a new Constitutional Amendment. The proposed SB 483 clearly curtails the rights given to victims; this action is not permissible under *Syed v. Lee* and Article 47 of the Maryland Declaration of Rights.

In addition, expunging records automatically, and thereby eliminating from criminal record databases everything more than 7 years old, will adversely affect law enforcement's efforts to assure public safety by investigating and judiciously charging offenders. Law enforcement and prosecution officials will not know if they are dealing with serial offenders who have previously presented a threat to public safety, or with true first offenders. There will also be another adverse effect on criminal prosecutions. Current law allows, in appropriate circumstances, proof of felony convictions that are up to fifteen years old to be used to impeach a witness, Maryland Rule 5-609(b). This bill would effectively reduce that period due to expungement to 7 years, and then eliminate those conviction records, including felony records, altogether, without any case-by-case judicial review for any adverse impact on public safety. Predatory offenders who have repeatedly defrauded Maryland citizens but have not yet been charged, even if that former offender was currently under investigation, would nonetheless automatically have their criminal records expunged. Many occupations (e.g., school bus drivers, bank tellers, child and senior care providers, etc.) involve fiscal responsibility or contact with vulnerable populations. Since individuals can find ways or hire others to invade and alter private electronic databases, official government records of convictions are necessary to allow employers, law enforcement professionals, crime victims, and even neighbors to learn if the individuals they regularly come in contact with have been convicted of fraudulent, dangerous, or violent activities. In addition, recidivism rates during the first decade after the release of many categories of felons approaches fifty percent, which is why current law distinguishes between offenses when setting the various waiting periods governing expungement. Therefore, this "one size fits all" automatic expungement bill will have a deleterious effect on the administration of the criminal law, on employers in many fields of endeavor, and on the fears and protection of neighbors and the general public.

Furthermore, any deletions of any public historical records must be taken with great care and not done in an automatic ongoing wholesale fashion that does not carefully consider on a case-by-case basis if there is a good cause to make an exception to the general rule of preserving historical records. In the case of records showing offenders charged with crimes, accurately preserving history is even more important, due both to public safety and because courts regularly receive challenges to decades-old convictions. Therefore, the current case-by-case approach, supervised by a judge after notice and an opportunity to comment by the State and the crime victim, protects society as well as crime victims.

For all these reasons, the proposed bill should receive an unfavorable vote.



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