



Testimony in Support of Senate Bill 320
Criminal Procedure – Expungement – No Finding and Case Terminated Without
Finding

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Melissa Rothstein, Esq.

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I am an expungement attorney for Out for Justice, Inc. (OFJ), and I urge the committee to issue a favorable report on SB 320.

OFJ’s mission is to engage, educate, and empower individuals impacted by the legal system to build collective power for dismantling systemic oppression and harmful policies. We strive to humanize marginalized communities, prevent criminalization, reduce recidivism and promote second chances and successful reintegration through advocacy, education and supportive programming. Providing the opportunity for someone to clear their record after having served their sentence is a high priority for OFJ and an important component of successful long-term reentry.

A criminal record can create insurmountable barriers to employment, education, housing, occupational licensing and public assistance. The General Assembly, particularly on bills that began with this Committee, has made great strides in increasing the availability of expungement to remove these barriers for most misdemeanor convictions once the person has served their sentence and incurred no subsequent convictions for a set minimum period of time. This bill will apply those reforms to people who received a “no finding” disposition so that they too have restored access to work, housing, and other basic opportunities after the designated waiting period.

This bill is a technical fix to provide the same expungement availability to a no finding disposition as is available to other findings of guilt for the same charge. It was uniquely used in Prince George’s County from the early 1990s through 2019 in circumstances that the judge recognized mitigated against a traditional guilty plea. During the bulk of its use, convictions were not eligible for expungement, even for relatively minor misdemeanor charges. Thus, the inequitable effect of the No Finding disposition did not arise until 2017, when the expungement law expanded to include guilty dispositions.



Last year, OPD estimated that there were more than 600 of these “no finding” dispositions a year, totaling more than 15,000 cases that should be available for expungement but are currently denied.

A no finding disposition would arise when someone entered what is known as an Alford Plea – the person pleads guilty by not contesting the charges (nolo contendere) but also without admitting to any of the underlying facts. These dispositions can result when someone wants their case resolved with less sentencing risk and quicker resolution and the court agrees that something less than the prosecution’s plea offer or trial demand is appropriate.

This bill does not expand the types of cases available for expungement, nor does it alter the time frame for when a conviction can be expunged. Rather it allows Prince George’s County residents to have the same eligibility for expungement as other Marylanders regardless of how the judge accepted their guilty plea.

For the foregoing reasons, Out for Justice urges the committee to issue a favorable report on of SB 0320.