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POSITION ON PROPOSED LEGISLATION

BILL: SB0464 – Commission to Examine the Expungement Laws of Maryland

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: February 9, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on SB 464.

This bill creates a two-year commission of authorities to examine Maryland's expungement laws and current expungement process, and it requires that the commission submit a report of findings to the General Assembly by the end of 2027. In particular, the bill directs the commission to investigate efficiency and equity issues, review the expungement processes that exist in comparable states, and develop an alternative statutory scheme with an eye toward streamlining processes and broadening eligibility. OPD supports this measure in the hope that it will broaden employment and housing opportunities, help individuals reintegrate into society following a conviction, and ultimately reduce recidivism.

According to data from the Clean Slate Maryland initiative, 22% of Maryland adults – over 1 million people – have some type of arrest or conviction record. Of these, fewer than half – 407,000 adults – are presently eligible for a full record clearance, and only 2% of individuals with eligible convictions currently receive expungement relief. Whether due to confusion, red tape, or lack of knowledge about the processes available, there is a clear need to determine why the process is falling short and how it could be enhanced. In addition to improving individual lives by clearing barriers to jobs, education, and housing, expungement also benefits the broader community – strengthening families, increasing economic productivity, and boosting equity by removing a source of bias, assumptions, or flat-out mistakes tied to old charges and convictions.

While the existing system already benefits many individuals, OPD supports this effort to study methods that other states have developed with an eye toward identifying best practices. The agency is uniquely positioned to hear of anecdotal issues and limitations with the present system from our clients. One area of concern is the piecemeal list of eligible offenses, which are not clearly tied to seriousness or culpability. The current expungement framework requires specific legislation to add any offense of conviction to the list of nearly 100 in Criminal Procedure Section 10-110; therefore, there are many low-level misdemeanors and even traffic offense convictions which remain ineligible solely because they have not been specifically added to the list, not due to the severity of the offense nor to any specifically-expressed intent to exclude it from expungement eligibility. To name a few surprising examples: reckless driving, keeping a disorderly house, and trespass by refusal to leave private (or public) property are all presently not expungable (though note that a conviction for trespassing on posted property *is* presently expungable). Besides creating unequal outcomes for similarly-situated offenders by leaving some convictions permanently on an individual's record, these arbitrary designations foster confusion among attorneys and defendants alike, creating an early hurdle that likely prevents many individuals from pursuing affirmative relief, despite their eligibility under law. Additionally, Maryland only allows expungement of a handful of felony convictions – no matter how much time has passed since the conviction or any intervening mitigating factors. Given the common-sense assumption that more serious offenses carry stronger prejudice in public opinion – and thus, individuals with these convictions would stand to gain exponential benefits from expungement opportunities – OPD encourages the commission to study the strategies of other jurisdictions in permitting expungement of more serious offenses and the potential benefits of further expanding eligibility in Maryland.

OPD also encourages the commission to consider 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, multiple OPD clients have successfully expunged their records only to find that third-party background checks or federal law enforcement systems (including immigration databases) continue to incorrectly flag their prior records. Rather than accurately deducing that the matter was concluded and expunged (and thus should not be included in the report at all), these checks list “no result” for a matter, creating an incorrect impression that it remains a “pending”

matter – even in situations where a judge acquitted the individual of all counts and the court automatically expunged the charges. Impacted individuals can attempt to correct this error and remove themselves from this frustrating purgatory by obtaining a certified historical record of the case file from the court, if it has been securely preserved – however, this becomes impossible in instances of “obliteration.” The proposed commission should study methods to avoid such inaccuracies at the start and, more importantly, alternatives to the unintentionally harmful obliteration option.

Further, OPD encourages the legislature to explicitly codify a personal right allowing any individual to request certified copies of their own specific, historical court records – whether expunged or not – as a backstop remedy. Permitting this narrow access would help individuals to better understand their own records (and how those records appear to prospective employers) and protect residents whose background checks erroneously list matters as pending or as a conviction despite expungement, while still protecting them from broader unauthorized intrusions into their privacy. The commission could investigate whether courthouse clerks might be able to perform identity confirmations for these requests without burdening petitioners or judges with the time-consuming “good cause” showing and court order requirements under the current system.

While these initial areas of concern are far from exhaustive, they highlight the need for an expert commission to investigate expungement further, learn from other state systems, and expand opportunities for more Marylanders.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 464.

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