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TO: The Honorable Will Smith, Jr.
Chair, Judicial Proceedings Committee

FROM: Rhea Harris
Deputy Director, Legislative Affairs, Office of the Attorney General

RE: Senate Bill 320 – Criminal Procedure - Expungement - No Finding and Case Terminated Without Finding - **Support in Concept**

The Office of the Attorney General (OAG) supports in concept Senate Bill 320 – Criminal Law-Expungement – No Finding and Case Terminated Without Finding. SB 320 authorizes the expungement of a disposition under a provision of law if the disposition was included in a case that was disposed of by the court with a “no finding” designation or designated by the court as having been terminated without finding. This legislation addresses a significant access-to-justice issue affecting thousands of Prince George's County residents who have been unable to clear their records due to a non-standard court practice that was not intended in Maryland's expungement statute.

Background on the Problem

For decades, Prince George's County courts routinely asked defendants to plead nolo contendere, or no contest, in criminal proceedings. In a no-contest plea, a defendant does not admit guilt but agrees to accept the consequences of a conviction. Under standard Maryland practice, these pleas result in guilty dispositions. However, Prince George's County courts frequently entered "No Finding" dispositions instead. Because "No Finding" is not part of Maryland's standard legal lexicon, it was not contemplated when the General Assembly drafted Title 10 of the Criminal Procedure Article, the statute governing expungement.

As a result, thousands of Prince George's County residents, predominantly people of color, have been unable to expunge records that, had they been processed in any other Maryland jurisdiction,

would have resulted in standard guilty dispositions eligible for expungement under existing law. These individuals face ongoing barriers to employment, housing, professional licensing, and other opportunities despite having completed their sentences and remaining law-abiding citizens. SB 320 corrects a procedural anomaly that has created disparate treatment based solely on geography, ensuring Prince George's County residents have the same expungement opportunities as defendants in other jurisdictions. Importantly, the bill does not expand expungement eligibility beyond current law. It simply ensures that the anomalous "no finding" practice does not create an unintended barrier to relief that would otherwise be available.

This legislation directly supports OAG's efforts to promote criminal justice equity and expand second chances for Marylanders who have completed their sentences.

Requested Amendments

While OAG supports the bill's intent, the current drafting raises an ambiguity that should be resolved before enactment. The bill adds new subsection (j) to §10-110 of the Criminal Procedure Article, which generally governs expungement of convictions for specific enumerated offenses after certain waiting periods. By placing the "no finding" provision in §10-110, the bill creates uncertainty about whether:

1. Only "no finding" dispositions for offenses already listed as expungable under §10-110(a) may be expunged; or
2. All "no finding" dispositions—including for serious violent offenses not otherwise expungable—become eligible for expungement.

We believe the General Assembly intends the former interpretation—that only those offenses already eligible for expungement under §10-110 should be expungable when they carry a "no finding" disposition. To eliminate this ambiguity, we recommend one of two technical amendments:

- **Option 1:** Move new subsection (j) into subsection (a) of §10-110, which defines which convictions are expungable; OR
- **Option 2:** Add a limiting cross-reference in subsection (j) clarifying that only "no finding" dispositions for offenses listed in subsection (a) are eligible for expungement.

Without this clarification, the bill could inadvertently create eligibility for expungement of serious offenses—such as violent felonies—that received "no finding" dispositions, an outcome we assume is unintended.

If the General Assembly intends to make all "no finding" dispositions expungable regardless of the underlying offense, the provision should instead be placed in §10-105(a) of the Criminal Procedure Article, which addresses expungement of dispositions short of conviction (dismissals, nolle prosequi, probation before judgment).

We appreciate the General Assembly's work on this important policy and welcome the opportunity to share our perspective. For the foregoing reasons, the Office of the Attorney

General respectfully urges the Committee to give Senate Bill 320 a favorable report with suggested amendments.