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POSITION ON PROPOSED LEGISLATION

BILL: SB0315 – Criminal Procedure - Expungement - Adverse Actions and Removal From Maryland Electronic Courts (MDEC) System

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 315.

This bill takes two distinct actions regarding expunged offenses: first, it explicitly extends the benefits of expungement to state licenses, permits, services, and most critically, public education; second, it carries removal of pardoned cannabis possession cases over from existing record systems into the judiciary’s new MDEC database. OPD supports both measures because these modest clarifications will clear barriers to opportunities, help individuals reintegrate into society following a conviction, and ultimately reduce recidivism.

The bill’s first measure amends the existing language of Criminal Procedure Article, Section 10-109 – which already states that an individual is not required to disclose information about an expunged charge when applying for a state license, permit, registration, or other governmental service. A refusal to disclose such information is already listed as an impermissible ground for a state employee to deny the person’s “application,” and as additional protection, this bill replaces that vague term to clarify the broad range of services encompassed within it. More significantly, the bill aligns educational institutions with other state agencies – while educational institutions have long been listed in the initial lines of this Section, they are noticeably absent from the corresponding subsection (a)(3) that prevents using an applicant’s refusal to disclose an expunged offense as the sole basis for denying, expelling, or refusing to admit them. This bill corrects that curious and unwarranted omission. Education is a key resource allowing Marylanders to develop new skills, expand their opportunities, and further reintegrate into the community. So, this bill ensures that no one will be

excluded from those educational opportunities based solely on non-disclosure of an expunged prior charge – which is, under existing law, information intended not to be publicly divulged. As discussed in the racial equity impact note from last year’s HB 621, this measure will benefit not only individuals who struggle with obtaining employment, housing, and education after a conviction (or mere charge) for a criminal offense, but it will ultimately benefit the state’s overall equity and economic health.

The bill’s second provision is even more narrowly tailored: removing references to any pardoned cannabis possession offense from the judiciary’s online MDEC system. Existing statutes already restrict access to these pardoned offenses, and all references to them have been removed from the judiciary’s Central Repository and public Case Search system, so this bill carries that practice across to an additional court database. It is particularly noteworthy that SB 315 defines “expunge” in this narrow context to mean “remove all references to a specified criminal case” from the relevant systems, rather than allowing for obliteration of case records. OPD believes that this provision strikes the right balance: it removes all references to a pardoned offense – and thus eliminates the risk of a misunderstanding or bias concerning a pardoned individual’s history – without obliterating all records of the offense, thus securely preserving a historical copy just in case that individual needs to access their own court records to correct an error.

Given this bill’s bespoke definition of “expunge,” OPD supports SB 315. In fact, the agency advocates for amending the state’s overall expungement process to more closely mirror SB 315’s definition of “expunge” and eliminate the issues caused by permitting the obliteration of records in other contexts. 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 for cannabis offenses, pardoned), 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.” 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 315.

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