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POSITION ON PROPOSED LEGISLATION

BILL: SB0483 – Criminal Procedure – Automated Shielding (Clean Slate Act of 2026)

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: March 27, 2026

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on SB 483. This Committee previously considered a version of the Clean Slate Act as HB 360; the legislation that passed out of the Senate was significantly amended. While OPD ultimately endorses an automated process for full expungement (but expungement with a right to individual record access and without the harms of obliteration), the agency also supports this bill’s automated shielding process as a significant rehabilitative step forward.

Record shielding broadens opportunities for education, employment, professional licensing, and housing, helping individuals reintegrate into society, and ultimately reducing recidivism. It also reduces the systemic barriers that arise from racial disparities in the criminal legal system and perpetuate cycles of poverty and marginalization. This bill changes the process of identifying and shielding eligible dispositions – making the benefit automatic, rather than requiring a written request. It ensures that individuals are fully benefiting from their existing rights under law, rather than missing out on critical life opportunities due to an old conviction that is ripe for removal. OPD supports this measure to remove confusion and delays from the shielding process and efficiently provide eligible defendants with relief for which they already qualify.

The Senate’s most significant amendment recontextualizes the process as “shielding” records pursuant to Md. R. Crim. Proc. § 10-301, rather than “expunging” these records pursuant to Md. R. Crim. Proc. §§ 10-105–110, but while preserving the eligibility tiers listed within those various expungement provisions. By automatically removing these “technically eligible” records from

general public view after the passage of time and other qualifications, this bill continues to balance the objectives of public safety, data privacy, records maintenance, and rehabilitation.

For over a decade, Maryland law has recognized the benefits to individuals and society at large in allowing people to clear the stigma of a criminal disposition off their record. According to the Clean Slate Maryland coalition, at least 407,000 adult residents are eligible under present state law for a full record clearance; however, only 2% of those individuals currently receive expungement relief.

Whether due to confusion, red tape, or lack of knowledge about the processes available, this process is falling far short of its intended reach.

OPD clients regularly ask staff and attorneys about eligibility for expungement, often for old convictions with limited public safety implications. Part of their confusion comes from the difficulty in knowing how to initiate or advance an expungement petition without an attorney, even though that process is meant to be available to all. But another major complication is the complexity of the statutory scheme itself. The current expungement framework in Criminal Procedure § 10-110 collects nearly 100 designated offenses which have been added piecemeal over the last decade. The result is a long list of offense numbers with limited logical structure. These arbitrary designations foster confusion among attorneys and defendants alike, creating an early hurdle against pursuing affirmative relief, despite eligibility under law.

The Clean Slate Act takes guesswork and confusion out of the process. It creates an automated procedure for the Judiciary to identify all dispositions that are newly eligible for shielding each month and then remove those case records from general public view. To be clear, this bill shifts the *method* without impacting any of the existing *criteria* for eligibility. The offense categories, time periods, and other statutory eligibility requirements remain the same. But instead of placing the burden on each defendant to study the intricacies of the legal code and formally request the relief they are due, professional custodians with training and expertise in the state's expungement and shielding laws will ensure that those benefits are granted to all who are eligible.

The Clean Slate Act had always defined its expungement benefits differently from those under § 10-101 – of particular note, the proposed Clean Slate process never allowed for the “obliteration” of records that is permitted under statutory expungement. Housing Clean Slate benefits under the shielding subtitle will further underscore that underlying case records should be securely preserved

(though removed from public view), which OPD continues to view as a critical protection and essential change to carry over into the state’s broader expungement laws.

In contrast to expungement, the existing shielding laws permit broader access rights. To be sure, shielding renders court and police records of a crime inaccessible by most members of the public and media. However, criminal justice units, health occupations boards, positions that will supervise children or vulnerable adults, and other employers and government licensing agencies that are subject to regulatory requirements retain full access to shielded records by statute. Additionally, existing law provides a right of full access to the person who is the subject of a shielded record, that person’s attorney, and a person with written authorization from an exempted person or agency. For both the shielding and expungement contexts, OPD supports this individual right of access to help individuals to better understand their own records (and how those records appear to prospective employers or other requesters), and such access can act as a backstop remedy to protect residents whose background checks erroneously list matters as pending or as a conviction despite relief, while still guarding them from broader unauthorized intrusions into their privacy. While OPD has some concerns that these broad shielding exemptions have the potential to ultimately swallow the rule – and in particular, the agency advocates for expanding this bill’s protections to include removal of all references to a technically eligible case from the Central Repository – these concerns are, to some extent, alleviated by the continued ability to petition for full expungement. Anyone whose records have been automatically shielded is, by definition, eligible to separately request expungement to fully benefit from their rights under law. However, expungement will remain an extra endeavor, not an automatic one.

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Shifting the source of shielding off of individuals and onto trained custodians of records is sensible policy – it streamlines the process and prevents many thousands of Marylanders from needing to become experts in expungement law to be granted the benefits for which they are presently eligible. By shielding old criminal dispositions to remove a source of bias, stigma, and assumptions, the automated process proposed in this bill will improve individual lives – clearing barriers to jobs, professional licenses, public assistance, education, and housing – and benefit the broader community by strengthening families, increasing economic productivity, and boosting equity.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on SB 483.

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