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## POSITION ON PROPOSED LEGISLATION

**BILL: HB0169 – Criminal Procedure – Expungement of Records – Good Cause**

**FROM: Maryland Office of the Public Defender**

**POSITION: Favorable**

**DATE: February 27, 2026**

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The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on HB 169.

Expungement 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. At its core, this bill allows judges to do what they do best – use their discretion to consider an individual’s specific circumstances and then grant expungement relief if they are persuaded that good cause exists. This backstop measure ensures that no one is barred from relief because of an uncommon disposition or a mere technicality. OPD supports this measure, which provides all defendants with the possibility to move beyond a conviction after they have served their time, proven themselves, and earned relief.

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 charge and conviction off their record. According to 2022 data in a federally-funded study by SEARCH, The National Consortium for Justice Information and Statistics, over 25% of Maryland adults – nearly 1.7 million people – had some type of arrest or conviction record. However, according to the Clean Slate Maryland coalition, only 407,000 adults are presently eligible for a full record clearance. These numbers highlight that – while the existing system benefits many individuals – it is presently limited by both its rigidity and its complexity. The current expungement framework has been assembled in piecemeal fashion, and it requires specific legislation to name any single offense as eligible for expungement consideration.

That list of eligible offenses in Criminal Procedure Section 10-110 lacks 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 confounding 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 expunging some convictions while leaving others permanently on an individual's record, these arbitrary designations foster confusion among attorneys and defendants alike. The current system both limits the relief available and disincentivizes individuals from even attempting to navigate the process by filing a petition. This bill improves the system by taking the focus off of inflexible statutory designations and placing it instead on the individual, their demonstrated growth, and their need for relief.

Further, Maryland presently allows expungement for only a handful of felony convictions – no matter how much time has passed since the conviction, the individual's intervening growth and achievements, or any particularized needs – such as a bar to employment, professional license, or other assistance and opportunities. To be clear, this bill still mandates that judges give proper consideration to the underlying facts and circumstances of the offense committed and deny petitions where the nature of the crime is incompatible with a good cause finding; however, it avoids slamming the door on any person based on the legislature neglecting to specifically designate the offense. Given the common-sense assumption that felony offenses carry stronger prejudice in public opinion – and thus, that individuals with these convictions would stand to gain exponentially from expungement opportunities – this bill could have life-altering benefits for individuals who have completed their sentence, committed to changing their behavior over an additional period of years, and proven themselves deserving.

While OPD supports HB 169 on its own terms, the agency advocates for 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 (which is unaffected by HB 169) 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 can still be flagged by third-party background checks or federal

law enforcement systems (including immigration databases), listing the case and charges as “no result,” and creating an incorrect impression that it remains a pending matter, rather than accurately deducing that the matter was concluded and expunged (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.” Until the legislature ends this unintentionally damaging obliteration option, expanding the availability of expungement will also expand the number of individuals who are harmed by having their court records obliterated, rather than simply sealed and removed from public access. Additionally, OPD encourages the legislature to explicitly codify a right of action allowing any individual to make a request to courthouse clerks for certified copies of their own court records, whether expunged or not, as backstop protection for residents. This proposal can still protect individuals from unauthorized intrusions into their privacy, without burdening petitioners or judges with the present requirements of a separate judicial hearing, “good cause” showing, and court order to receive one’s own records.

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Allowing a person to expunge their record after they demonstrate “good cause” is a critical update to Maryland’s current expungement laws, which allows our state judges to evaluate each person and their petition on their individual merits, rather than as a datapoint on a confusing and limited list. In addition to improving lives by clearing barriers to jobs, education, and housing, this new opportunity for expungement will also benefit the broader community – strengthening families, increasing economic productivity, and boosting equity by removing a source of bias or assumptions tied to old convictions. It provides a goalpost to inspire those who are re-entering society, as well as a well-deserved reward to those who have earned it.

**For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on HB 169.**

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