

SB 483 - Summary of Amendments

SB 483 and other **Clean Slate policies are designed and tailored for each and every state**. Such policies **consider the unique cultural, political and administrative environment** that exists, helping to design the best possible legislation to reduce administrative burden while achieving the intended goals. The amendment process in Senate JPR took the bill language from the expungement section of criminal procedure (the 10-100s) and moved it into the shielding section (10-300s). In so doing, the resulting language was significantly abbreviated.

Using the shielding portions of the statute is a worthy approach; however, significant portions of process language need to be reinstated to have the intended effect. Primarily, the new language does not make certain that repository records would be shielded. Without also shielding within Maryland's record repository, known as CJIS, commercial background checks could still produce the records, defeating the intended purpose.

Additionally, **the shielding section of criminal procedure is an underdeveloped statute**, largely subsumed by post-conviction expungement first provided in the 2016 Justice Reinvestment Act. By placing automation into the shielding section of the statute, some additional minor changes are necessary to produce the proper effect of a clean slate policy.

Senate changes made in the JPR amendment

1. Deleted the text of the bill and new section 10-112.1 in its entirety.
2. Repealed and reenacted, without amendments, the definitions section of shielding in section 10-301 (a) through (e).
3. By repealing and reenacting the above definitions, without including (f) and (g), effectively eliminated the remnants of petition-based shielding, presumably because petition-based expungement is available in the alternative.
4. Creates a new section 10-303.1, which defines an automation process for those cases "technically eligible for expungement," and creates a monthly identification and shielding process.
5. Eliminates any explicit responsibility on the part of the Department of Public Safety and Correctional Services (DPSCS) from shielding cases.

Proposed Additional Amendments

1. Clarifies and reinstates the DPSCS role in shielding cases within the central repository, CJIS.
2. Refines the definition of shielding to include non-conviction results.
3. Clarifies the definition of "technically eligible for expungement" by relating "nature of the charge" and "relevant time" to the appropriate provisions in the expungement statute.
4. Makes clarifying amendments to the process of shielding, basing the work in electronically available records, and providing a sentence completion date for purposes of calculating the "relevant time."
5. Clarifies access and use of shielded criminal record information by licensing agencies.