

Bill Number: SB 201
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed, Requesting an Amendment

WRITTEN TESTIMONY OF SCOTT SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY, IN
OPPOSITION TO SENATE BILL 201
EXPUNGEMENT OF RECORDS – WAITING PERIOD

I write in opposition of Senate Bill 201 as drafted that will greatly shorten the amount of time one needs to wait to obtain an expungement. While I understand and support a shortening to 18 months for an expungement of an acquittal, nolle prosequi, or dismissal, I object to adding a disposition of a Stet or probation before judgement (PBJ) to this group.

In the case of a PBJ a Judge has found the Defendant guilty of a crime and as an effort to spare the Defendant a criminal record has stricken the guilty and entered a PBJ. Allowing PBJ's to be expunged after only 18 months is too soon as it could lead to crime, PBJ, 18 months to expungement to crime to PBJ to expungement. When found guilty and given the benefit of a PBJ, a Defendant should have more time to prove they are worthy of an expungement.

The same is equally true of a Stet. A Stet is not a dismissal but a placing of a case on an inactive docket. A Stet very often comes with conditions such as stay away or the payment of restitution. Allowing an expungement of a Stet after only 18 months runs counter to the law surrounding Stet's. First, a Stetted case can be reopened for any reason for one year. Importantly as regard to Senate Bill 201, a Stet case can be reopened for good cause for up to three years. Allowing for an expungement of a Stet after 18 months would run counter to this rule.

Stet's are very often used in Domestic Violence cases. If a Domestic Violence case is Stetted and a Defendant is ordered to stay away from the victim, that victim has three years or protection where she/he could reopen that Stet if there is a violation. Senate Bill 201 would defeat this very important protection.

I do not think Senate Bill 201 is necessary, but if this committee does, it should be amended to exclude PBJ's and Stet's from the 18 month time period.