

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF HOUSE BILL 238:
Criminal Procedure – Automatic Expungement

TO: Hon. Luke Clippinger, Chair, and members of the House Judiciary Committee

FROM: Christopher Dews, Policy Advocate

DATE: February 23, 2021

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We support House Bill 238 as a means of reducing the impact of incarceration on lower-wage workers and eliminating barriers to employment.

A criminal record can be both the cause and consequence of poverty. Lower-income workers and job seekers are routinely denied employment, housing, and educational opportunities because of a criminal record. Worse yet, in the state of Maryland, a criminal record is acquired upon arrest, *whether or not a person is ever convicted of a crime*. Anything that occurs after an arrest is documented on an individual's criminal record and, in Maryland, will remain publicly visible via Maryland Case Search until the charges and dispositions are expunged. There is no valid reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequis- should visibly remain on the public record or require a petition for expungement. Indeed, current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

In Maryland, the expungement of non-conviction charges is not automatic. To begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article for every interaction with the criminal justice system, regardless of the disposition of the case. Due to Maryland's statute of limitations, a court or police record may not be expunged by obliteration until three (3) years after the disposition of the charge. As such, even if a defendant was *not* found guilty, the record remains accessible to the public during the three (3) year period. Probations before judgment (PBJs) are available for a petition of expungement three years after the satisfactory completion of both the sentence and any probationary standards. There is no cost for the expungement of charges that did not result in a conviction; however, a written petition requesting expungement of records is required.

Many individuals with non-conviction charges, PBJs, or stets are wholly unaware that they even have a criminal record that is viewable by the public. As such, they do not move to seek expungement because they were not found entirely guilty. As a result, thousands of Marylanders are stuck with dated records, many of which are non-convictions that hinder their ability to secure employment.

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House Bill 238 seeks to address this issue by automatically expunging records for any individual found not guilty (acquittals, dismissals, nolle pros, etc.) or have certain PBJs and stets. This bill would also remove the charges from public view during the three (3) year waiting period in order to eliminate barriers to employment and public services. Marylanders are desperate for solid economic opportunities in the wake of the pandemic. A criminal record for charges that have been dropped or voided in the court system should not prevent anyone from taking advantage of said opportunities. JOTF fully supports any legislation that eliminates barriers to employment for low-income workers and job seekers in the state of Maryland. House Bill 238 does just that- it removes an unnecessarily punitive barrier to employment. For these reasons, we respectfully urge a favorable report of House Bill 238.