

Bill Number: HB 238
Scott D. Shellenberger, State's Attorney for Baltimore County
Opposed

WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,
STATE'S ATTORNEY FOR BALTIMORE COUNTY,
IN OPPOSITION TO HOUSE BILL 238
AUTOMATIC EXPUNGEMENT

I write in opposition to House Bill 238 which would mandate automatic expungement of a dismissal, acquittal, nolle prosequi, stet or probation before judgement of any crime except a violation of DUI laws. The probation before judgement expungement would be directed to occur as soon as the sentence is completed. There are a number of reasons why this bill will not serve justice and the citizens of this State.

First, the expungement would be automatic and not take into consideration whether or not the person has committed another offense since the PBJ or if the person is pending criminal charges. An individual could be fortunate enough to receive a PBJ for a serious crime and it would automatically disappear the day after his probation is over even if he has since been convicted of another serious crime or crimes or is pending prosecution for a serious crime. In the current day, after Justice Reinvestment, probations are being abated early. A judge could put a person on probation for a year and that could be shortened by abatement. How does it make sense that a Judge cannot consider or even know about a probation before judgement for a Robbery when the person is convicted a year later for a series of robberies. The current expungement structure requires consideration of the persons subsequent behavior and if there are pending charges when a person becomes eligible for expungement. In addition a person who commits an offense and is granted a probation ought to be required to show that they are able to comply with the law a little longer than the end of probation.

In addition, this process would be impossible to maintain or effectuate. The volume of eligible cases would be very high. It would again be an unfunded mandate hoisted upon the courts and booking facilities and law enforcement units. It is unclear how a system would be able to determine the circumstances through which it could be determined when a case is eligible for expungement and then would throw a right of redress against the courts or law enforcement agencies if they can't guess right and get everything cleared out within 60 days.

The existing expungement laws have been expanded significantly over the last few years and are clearly being utilized in great volume.

I ask for an unfavorable report on House Bill 238