

TESTIMONY IN SUPPORT OF SENATE BILL 710:

Criminal Procedure – Expungement of Records – Modifications

TO: Hon. Will Smith, Chair, and Members of the Senate Judicial Proceedings Committee

FROM: **Sarah Smith, volunteer with Life After Release**

DATE: March 8th, 2022

Life After Release is a grassroots organization led by formerly incarcerated Black women that supports community members before, during, and after they encounter the criminal (in)justice system. Life After Release also advocates for the abolition of policing and prisons while advocating for greater community care and support to truly keep people safe.

Sarah Smith support(s) Senate Bill 710 as a means of reducing the impact of incarceration and enhancing employment opportunities for lower-income workers and job seekers throughout the state.

A criminal record can be both the cause and consequence of poverty and has detrimental effects on the employment prospects for the 25% of working-age Marylanders with a record. Every year, approximately 15,000 Marylanders are released from state prisons and struggle to secure a job, find a place to live and reenter society. Demographically, 72% of Maryland's prison population is black, the highest in the nation, and one out of three Marylanders returning from incarceration, return to Baltimore City. The Department of Justice has [found](#) high rates of recidivism among returning citizens, with half of all returning citizens recidivating within 3 years and 60 percent recidivating within 5 years. One of the primary drivers of high recidivism rates is the inability of returning citizens to find a job: up to 60 percent of formerly incarcerated persons remain unemployed one year after their release. This is mainly due to the fact that more than 70% of employers perform background checks on all of their job applicants and deny employment to many returning citizens on the basis of a record. A past criminal conviction of any sort reduces job offers by half. This leaves many of the 1.5 million Marylanders with a criminal record out in the cold when trying to obtain gainful employment. When securing employment through traditional means becomes untenable, many opt for entrepreneurial ventures, skills training, or both, to stay afloat. A 2015 Manhattan Institute study [revealed](#) that employment, especially within the first six months of release, drastically lowers the likelihood of recidivism for nonviolent offenders.

Unfortunately, Maryland has drastically longer waiting periods for expungement than most other states in the nation. [Maryland Code Ann., Criminal Procedure §10–110](#) states that an individual must wait **10 years** before they are eligible to expunge most *nonviolent* misdemeanor convictions from their record, **15**

years for a common-law battery or 2nd-degree assault conviction, and **15 years** for a non-violent felony. The waiting period kicks in *after* they have completed their entire sentence, parole or probation, drug treatment, *and* any mandatory supervision. In most instances, the waiting periods are *far* longer than the actual sentence, leaving individuals released from incarceration with barriers to education, employment, housing, public assistance, occupational licensing, and much more.

According to a [recently released report](#) from Collateral Consequences Resource Center (CCRC), 42 other states have shorter waiting periods for misdemeanor expungement, including Texas, Alabama, Mississippi, and Utah. With regards to non-violent felonies, Maryland ranks 35th in the nation on expungement waiting periods, far behind Colorado, Arkansas, North Dakota, and Oklahoma. [Maryland Code Ann., Criminal Law §14–101](#) lays out which crimes are considered “crimes of violence” and makes it clear that none of them are eligible for expungement. So to be clear, Senate Bill 710’s provisions do not affect violent crimes in any way. Senate Bill 710 specifically targets non-violent felonies and misdemeanors with the express intent of removing barriers to employment. It also clears up some slight legal confusion regarding the ineligibility to expunge invalidated warrants both in Maryland and in other states (i.e. fugitive warrants).

Senate Bill 710 makes several changes to the expungement statutes including:

1. Non-convictions (acquittals, dismissals, nolle pros)
 1. From 3 years to immediately
1. Probations Before Judgement
 1. From 3 years to eligible at the completion of Probation
 1. Not including Traffic Charges - DUI
1. Stets, Not criminally responsible, MJ possession
 1. From 3 years to 1 year
 2. Marijuana Possession ([§10–105 a\(12\)](#)) - from 4 years to 1 year
1. Misdemeanors

1. From 10 to 3 years

1. Contact Misdemeanors (Common-Law Battery & 2nd Degree Assault)

1. From 15 to 5 years

1. Non-Violent Felonies

1. From 15 to 5 years

Reducing these waiting periods will grant access to **Record Expungement Designed to Enhance the Employability** for the 1.5 million **Marylanders (REDEEM)** who are shut out of the workforce due to a criminal record. The provisions of Senate Bill 710 are well in line with what most other states are doing regardless of their political affiliation. Everyone must work if they expect to support themselves and their families, Maryland law shouldn't be the reason returning citizens are locked out of employment over a decade *after* they have served their time. For these reasons, we urge a favorable report on Senate Bill 710 and are open to discussing the provisions of the bill with the committee members.