

# JOTF JOB OPPORTUNITIES TASK FORCE

*Advocating better skills, jobs, and incomes*

## **SUPPORT HOUSE BILL 238: AUTOMATIC EXPUNGEMENT OF NON-CONVICTIONS**

### **Increase access to employment for workers with a criminal record**

#### **THE CHALLENGE**

- A criminal record can be both the cause and consequence of poverty. Low-income workers 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 until the charges and dispositions are expunged.
- There is no good reason that charges that did not result in a conviction - specifically acquittals, dismissals, and nolle prosequis- should visibly remain on the public record. Indeed, current law inadvertently replaces the "innocent until proven guilty" standard with an unjust "guilty even if proven innocent" standard.

#### **CURRENT LAW**

- The expungement of the disposition of a charge 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.
- 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.
- Due to § 10-107 of the Criminal Law Article, if two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge in the unit. This is known as the "unit rule" and applies to expungements under §§ 10-105 and 10-110.
- 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.

#### **THE SOLUTION: ALLOW FOR THE AUTOMATIC EXPUNGEMENT OF NON-CONVICTIONS**

- ✓ Charges that did not result in a conviction, should be automatically expunged from an individual's record immediately upon disposition for an acquittal, dismissal, or a nolle prosequi (except for nolle pros that require drug and alcohol treatment).
- ✓ PBJs and stets should be automatically expunged upon completion of probationary conditions or the allotted 3-year waiting period, respectively.
- ✓ Until the charges that did not result in convictions are eligible for expungement by obliteration (3-years), all records of said charges should be moved to a secured area not accessible by the public.

#### **For more information, contact:**

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