



**Testimony for the House Judiciary Committee
February 28, 2013**

**HB 1006 – Criminal Records – Shielding – Nonviolent Misdemeanor
Convictions**

SUPPORT

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The ACLU of Maryland urges a favorable report on HB 1006, a bill that helps to remove roadblocks to employment for formerly incarcerated individuals by allowing persons to petition the court to shield a specified number of nonviolent misdemeanor convictions 3 years after the person satisfies any mandatory supervision. This bill is practical, fair, and helps stabilize the economic security of our State.

Many ex-offenders are denied the opportunity to work based solely on their conviction. This makes it difficult – if not impossible – for them to re-enter society successfully and be able to earn a living. HB 1006 would help those with nonviolent, misdemeanor convictions to succeed so that they can become law-abiding, taxpaying citizens.

At the same time, shielded records would remain fully accessible to criminal justice units for legitimate criminal justice purposes and employers and certain entities with a statutory requirement to inquire into a candidate's criminal background history will have full access to shielded records.

The impact of having a criminal record is clearly exacerbated among African Americans, who are more likely than their white counterparts to have a criminal record and who may already experience racial discrimination in the labor market.¹ In Maryland, more than 72% of the prison population is black, and approximately 15,000 prisoners are released from Maryland institutions each year.² African Americans with criminal records are one-third as likely as African Americans without a criminal record to be called back for a job.³

According to a 2010 study by the Society for Human Resource Management, 92 percent of employers conduct criminal background checks.⁴ Empirical studies from across the United States have regularly found that employers are generally

¹ Amy Solomon, National Institute of Justice, *In Search of a Job: Criminal Records as Barriers to Employment* (June 2012).

² Maryland Division of Correction, *Annual Report Fiscal Year 2010*, available at <http://www.dpscs.state.md.us/publicinfo/publications/pdfs/DOC2010AnnualRpt.pdf>.

³ See Devah Pager, *The Mark of a Criminal Record*. *The American Journal of Sociology*, 108(5), 937-75 (2003), available at http://www.princeton.edu/~pager/pager_ajs.pdf

⁴ Society for Human Resources Management, *Background Checking: Conducting Criminal Background Checks* (Jan. 22, 2010).

reluctant to hire individuals who have criminal records. In one survey that was administered to over 3,000 employers in the metropolitan areas of four large cities, over sixty percent of employers reported that they would “ ‘probably not’ or ‘definitely not’ be willing to hire an applicant with a criminal record.”⁵

It is clear that persons with criminal records who are able to secure employment are more likely to succeed during the process of transition to the community, thus contributing to increased public safety.⁶ It is well known and widely accepted by practitioners and criminologists alike that recidivism declines steadily with time clean. Specifically, individuals with a prior record who have not been arrested or convicted of a crime over a period of four to seven years are statistically no more likely than someone with no prior record to commit a crime.⁷

If HB 1006 were to be enacted, Maryland would join other states such as Colorado, Indiana, Illinois, Massachusetts and Nevada in allowing for the shielding of certain records after a reasonable amount of time. This legislation would be a major step toward connecting willing, able job seekers with employment opportunities that would help them turn their lives around.

We urge a favorable report.

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⁵ Harry Holzer, Steven Raphael, Michael Stoll, *Perceived Criminality, Criminal Background Checks and the Racial Hiring Practices of Employers*, at pg. 3 (April 2005).

⁶ Aliya Maseelall, Amanda Petteruti, Nastassia Walsh, Jason Ziedenberg, *Employment, Wages and Public Safety* (Justice Policy Institute: November 2007).

⁷ Alfred Blumstein, Kiminori Nakamura, “‘Redemption’ in an Era of Widespread Criminal Background Checks,” *NIJ Journal*, Issue 263 (June 2009), at page 10; (the findings depend on the nature of the prior offense and the age of the individual); Kurlychek, et al. “Scarlet Letters & Recidivism: Does An Old Criminal Record Predict Future Criminal Behavior?” (2006).