



## Testimony for the House Judiciary Committee January 24, 2015

### HB 124 Criminal Procedure – Expungement – Conviction of a Crime That Is No Longer a Crime

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#### SUPPORT

The ACLU of Maryland urges a favorable report on HB 124, which creates an opportunity to expunge a criminal conviction for an offense that is no longer a crime.

Studies show that employment opportunities can reduce recidivism rates.<sup>1</sup> Yet, for far too many Marylanders, a criminal record—regardless of how minor the offense, such as minor possession of marijuana, which this body decriminalized last year—can be a bar to opportunities for success. The collateral consequences reach far beyond employment—a criminal record may compromise one’s eligibility for tuition assistance and stable housing. Moreover, these collateral consequences are particularly stark for communities of color.

#### **Criminal records exclude individuals from employment, educational opportunities, public benefits, and stable housing**

The existence of a criminal record can and does create a barrier to employment for many Marylanders. More than 80 percent of U.S. employers perform criminal background checks on prospective employees.<sup>2</sup> Under current regulations, a misdemeanor conviction in Maryland may result in the denial, suspension, or revocation of myriad business licenses, including: a barber license,<sup>3</sup> a cosmetology license,<sup>4</sup> an electrician license,<sup>5</sup> professional engineer license,<sup>6</sup> a landscape architect license,<sup>7</sup> an interior designer certificate,<sup>8</sup> and countless others.

Criminal convictions also serve to exclude persons from educational opportunities. A recent study found that a majority (66%) of colleges collect criminal justice information as part of the admissions process.<sup>9</sup>

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<sup>1</sup> See for example Nally, Lockwood, Taiping, and Knutson, *The Post-Release Employment and Recidivism Among Different Types of Offenders With A Different Level of Education: A 5-Year Follow-Up Study in Indiana* (noting that recidivist offenders were likely to be unemployed or under-educated)

<sup>2</sup> Burke, M.E., 2004 *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management*, Alexandria, Va.: Society for Human Resource Management, 2006.

<sup>3</sup> Md. Business Occupations and Professions, Code Ann. § 4-314

<sup>4</sup> Md. Business Occupations and Professions, Code Ann. § 5-314

<sup>5</sup> Md. Business Occupations and Professions, Code Ann. § 6-316.

<sup>6</sup> Md. Business Occupations and Professions, Code Ann. § 14-317.

<sup>7</sup> Md. Business Occupations and Professions, Code Ann. § 9-310.

<sup>8</sup> Md. Business Occupations and Professions, Code Ann. § 8-310.

<sup>9</sup> Center for Community Alternatives—Innovative Solutions for Justice, *The Use of Criminal Records in College Admissions, Reconsidered* (available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>).

A criminal conviction also hinders an individual's access to stable housing and a range of public benefits. Even a misdemeanor conviction record may bar individuals from residing at certain homes,<sup>10</sup> and exclude individuals from low-income utility payment plans<sup>11</sup> as well as food stamps.<sup>12</sup>

HB 124 will allow individuals with certain criminal convictions to access a broader range of services and opportunities, including but not limited to, employment, schooling, public benefits, and housing, and thereby contribute productively to the state's economy. By increasing access to this broad range of services, HB 124 can reasonably be expected to generate greater socioeconomic stability and productivity in Maryland's communities.

### **Criminal convictions disparately disadvantage individuals, families, and communities of color**

The over-criminalization of communities of color – largely due to the 'war on drugs' – has produced the startling result that one in three Black men born today can expect to go to prison in their lifetime, compared with one in six Latino men, and one in seventeen White men.<sup>13</sup> In addition to facing higher imprisonment rates, racial minorities, once arrested, are more likely to be convicted, and once convicted, are more likely to face longer sentences than their White counterparts.<sup>14</sup>

With higher conviction rates, persons of color necessarily bear the brunt of collateral consequences stemming from criminal convictions. Exclusion from the job market, stable housing, and countless other crucial services perpetuates the cycle of imprisonment plaguing communities of color—without gainful employment and stable housing, individuals are forced to return to livelihoods of criminality.

The federal government has called on states to assess the collateral consequences of their criminal laws, so that “people who have paid their debt to society are able to live and work productively.”<sup>15</sup> HB 124 responds directly to this calling.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on HB 124.

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<sup>10</sup> See for example, COMAR 35.04.01.04.

<sup>11</sup> COMAR 20.31.01.08.

<sup>12</sup> Md. Human Services Code Ann. § 5-601.

<sup>13</sup> Saki Knafo, 1 In 3 Black Males Will Go To Prison In Their Lifetime, Report Warns (HUFFINGTON POST, Oct. 4, 2013).

<sup>14</sup> *Id.*

<sup>15</sup> Amy L. Solomon, *In Search of a Job: Criminal Records as Barriers to Employment* (NATIONAL INSTITUTE OF JUSTICE, June 15, 2012).