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March 22, 2017

Maggie McIntosh  
Chair  
General Assembly of Maryland  
House Appropriations Committee  
House Office Building, Room 121  
Annapolis, Maryland 21401

Re: Maryland House Bill 694; Maryland Fair Access to Education Act of 2017

Dear Ms. McIntosh:

On behalf of the American Bar Association, with over 400,000 members worldwide, including more than 10,000 members in Maryland, I write in regard to Maryland House Bill 694, the Maryland Fair Access to Education Act of 2017. The ABA strongly supports your efforts to prohibit state-funded institutions of higher education from considering a person's criminal history during the admissions process except in specific circumstances.

The collateral consequences of criminal convictions are the subject of multiple ABA projects, policies, and standards ensuring fair treatment of individuals with criminal records. In 2012, the ABA Criminal Justice Section began working with the National Institute of Justice to identify and publicize all collateral consequences on the National Inventory of Collateral Consequences of Conviction, a publicly searchable website,<sup>1</sup> for both individual states and federal law. The Section also developed standards that the ABA adopted as policy to address collateral sanctions that impede a person's ability to reenter society. The *Standards on Collateral Sanctions and Discretionary Disqualification of Convicted Persons*, section 19-3.1, lay out the ABA's position on discrimination based on prior criminal history as it relates to opportunities for advancement. This Standard affirmatively proscribes that the legislature should prohibit the discretionary disqualification of a convicted person from benefits or opportunities that would allow them to advance professionally, unless engaging in the conduct underlying the conviction would provide a substantial basis for disqualification even if the person was not convicted.

Maryland House Bill 694 will help applicants who have a criminal history at least to be considered for higher education and, if admitted and allowed to graduate, will potentially help them get a better job later. Securing meaningful employment has been shown to be

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<sup>1</sup> <https://niccc.csjusticecenter.org/>, project now managed by The Council of State Governments.

one of the most predictive factors of criminal recidivism.<sup>2</sup> Having a criminal record, even if an individual was acquitted or if the charges were dismissed, can have a negative effect on employment prospects.<sup>3</sup> Education is directly related to better employment and lower rates of criminal recidivism. Thus, allowing past offenders to be free from discrimination in higher education opportunities will even the playing field and allow them to better themselves professionally, thereby reducing their risk of further interaction with the criminal justice system.

The American Bar Association supports educational opportunities for individuals who have been convicted of a criminal offense. In 2015, the Association adopted policy to urge Congress to restore Pell Grant eligibility to incarcerated individuals, citing the reduction in recidivism and the re-entry benefits to prisoners.<sup>4</sup> The report with that policy cites a study of 3,200 prisoners in Maryland, Minnesota, and Ohio that found that attending school while incarcerated reduces the likelihood of recidivism and ultimately incarceration by 29 percent. It also cites another study conducted by the Texas Department of Education that showed that out of 883 men and women who earned college degrees while incarcerated, recidivism rates were 27.2 percent for those who completed an Associate of Arts Degree and 7.8 percent for those who completed a Bachelor of Arts Degree, compared to a system-wide rate of 43 percent.

We look forward to the development of legislation in Maryland that encourages the continuing education of individuals with a criminal record and removes barriers to their ability to meaningfully reenter society and transition into the workforce.

Thank you for considering the views of the American Bar Association. If you have any questions regarding the ABA's position on the legislation or any other matter, please contact me or Principal Deputy Director Holly Cook ((202) 662-1860; [Holly.Cook@americanbar.org](mailto:Holly.Cook@americanbar.org)).

Sincerely,



Thomas M. Susman

cc: Tawanna P. Gaines, Vice Chair  
House Appropriations Committee

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<sup>2</sup> Lahny R. Silva, Clean Slate: Expanding Expungements and Pardons for Non-Violent Federal Offenders, 79 U. Cin. L. Rev. 155 (2010).

<sup>3</sup> Pager et al., Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records, American Academy of Political and Social Science, (May 2009), [http://scholar.harvard.edu/files/pager/files/annals\\_sequencingdisadvantage.pdf](http://scholar.harvard.edu/files/pager/files/annals_sequencingdisadvantage.pdf).

<sup>4</sup> <https://www.americanbar.org/content/dam/aba/images/abanews/2015annualresolutions/108b.pdf>.