

HB0238/522011/1

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL 238
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Automatic**”; in the same line, after “**Expungement**” insert “**of Records**”; strike beginning with “providing” in line 3 down through “charges;” in line 24 and substitute “requiring the expungement of certain records after a certain period of time under certain circumstances; requiring a court to send a certain notice under certain circumstances; requiring a court to notify a certain defendant of certain information relating to expungement; providing for notice under this Act to be made by mail under certain circumstances; requiring a court to mail a certain written form to a certain defendant;”; in line 24, after “expungement” insert “of records”; and after line 24, insert:

“BY repealing and reenacting, with amendments,
Article - Criminal Procedure
Section 10–105(b)(1), (d)(1), and (f)
Annotated Code of Maryland
(2018 Replacement Volume and 2020 Supplement)”;

and in line 27, after “10–105.1” insert “and 10–105.2”.

AMENDMENT NO. 2

On pages 2 through 4, strike in their entirety the lines beginning with line 4 on page 2 through line 20 on page 4, inclusive, and substitute:

“10–105.

(Over)

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection AND § 10-105.1 OF THIS SUBTITLE, a person shall file a petition in the court in which the proceeding began.

(d) (1) [The] EXCEPT AS PROVIDED IN § 10-105.1 OF THIS SUBTITLE, THE court shall have a copy of a petition for expungement served on the State's Attorney.

(f) [Unless] EXCEPT AS PROVIDED IN § 10-105.1 OF THIS SUBTITLE AND UNLESS an order is stayed pending an appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.

10-105.1.

(A) BEGINNING OCTOBER 1, 2021, ANY POLICE RECORD, COURT RECORD, OR OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE RELATING TO THE CHARGING OF A CRIME OR A CIVIL OFFENSE UNDER § 5-601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE, INCLUDING A MUST-APPEAR VIOLATION OF THE TRANSPORTATION ARTICLE, SHALL BE EXPUNGED 3 YEARS AFTER A DISPOSITION OF THE CHARGE IF NO CHARGE IN THE CASE RESULTED IN A DISPOSITION OTHER THAN:

(1) ACQUITTAL;

(2) DISMISSAL;

(3) NOT GUILTY; OR

(4) NOLLE PROSEQUI, EXCEPT NOLLE PROSEQUI WITH A REQUIREMENT OF DRUG OR ALCOHOL TREATMENT.

(B) FOR A CASE DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE COURT SHALL SEND NOTICE OF THE DISPOSITION OF EACH CHARGE IN THE CASE AND THE DATE ON WHICH EXPUNGEMENT IS REQUIRED TO:

(1) THE CENTRAL REPOSITORY;

(2) EACH BOOKING FACILITY, LAW ENFORCEMENT UNIT, AND OTHER UNIT OF THE STATE AND POLITICAL SUBDIVISION OF THE STATE THAT THE COURT BELIEVES MAY HAVE A RECORD SUBJECT TO EXPUNGEMENT UNDER THIS SECTION; AND

(3) THE PERSON ENTITLED TO EXPUNGEMENT.

10-105.2.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AFTER DISPOSITION OF ALL CHARGES IN A CASE INVOLVING A CRIMINAL OFFENSE OR A CIVIL OFFENSE UNDER § 5-601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE, INCLUDING A MUST-APPEAR VIOLATION OF THE TRANSPORTATION ARTICLE, THE COURT SHALL NOTIFY THE DEFENDANT OF THE DEFENDANT'S RIGHT TO EXPUNGEMENT UNDER § 10-105 OF THIS SUBTITLE IF NO CHARGE IN THE CASE RESULTED IN A DISPOSITION OTHER THAN:

(1) ACQUITTAL;

(2) DISMISSAL;

(3) NOT GUILTY; OR

(4) NOLLE PROSEQUI, EXCEPT NOLLE PROSEQUI WITH A REQUIREMENT OF DRUG OR ALCOHOL TREATMENT.

(B) (1) IF THE DEFENDANT IS NOT PRESENT IN COURT FOR THE DISPOSITION, THE COURT SHALL NOTIFY THE DEFENDANT BY MAIL.

(2) THE NOTICE PROVIDED UNDER THIS SECTION SHALL INCLUDE A WRITTEN FORM FOR GENERAL WAIVER AND RELEASE OF ALL TORT CLAIMS RELATING TO THE CHARGE OR CHARGES ELIGIBLE FOR EXPUNGEMENT UNDER § 10-105 OF THIS SUBTITLE.”.