

SENATE BILL 662

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2002 Regular Session
2lr2556

By: **Senator Exum**

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Police and Court Records - Nonviolent Crimes - Expungement**

3 FOR the purpose of authorizing a person who was convicted of a certain criminal act
4 and who completed the sentence imposed for the conviction, including probation,
5 to petition for the expungement of certain records maintained by the State
6 pertaining to the conviction; authorizing a certain petition to be filed at a certain
7 time; and generally relating to the expungement of police records, court records,
8 and other records maintained by the State.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Procedure
11 Section 10-105(a)
12 Annotated Code of Maryland
13 (2001 Volume)

14 BY adding to
15 Article - Criminal Procedure
16 Section 10-105(a-1)
17 Annotated Code of Maryland
18 (2001 Volume)

19 BY repealing and reenacting, without amendments,
20 Article - Criminal Procedure
21 Section 10-105(d) and (e)
22 Annotated Code of Maryland
23 (2001 Volume)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Criminal Procedure

2 10-105.

3 (a) A person who has been charged with the commission of a crime, including
4 a violation of the Transportation Article for which a term of imprisonment may be
5 imposed, may file a petition listing relevant facts for expungement of a police record,
6 court record, or other record maintained by the State or a political subdivision of the
7 State if:

8 (1) the person is acquitted;

9 (2) the charge is otherwise dismissed;

10 (3) a probation before judgment is entered, unless the person is charged
11 with a violation of § 21-902 of the Transportation Article or Article 27, § 388A or §
12 388B of the Code;

13 (4) a nolle prosequi is entered;

14 (5) the court indefinitely postpones trial of a criminal charge by marking
15 the criminal charge "stet" on the docket;

16 (6) the case is compromised under Article 27, § 12A-5 of the Code;

17 (7) the charge was transferred to the juvenile court under § 4-202 of this
18 article; [or]

19 (8) the person:

20 (i) is convicted of only one criminal act, and that act is not a crime
21 of violence; and

22 (ii) is granted a full and unconditional pardon by the Governor; OR

23 (9) THE PERSON:

24 (I) WAS CONVICTED OF A CRIMINAL ACT THAT WAS NOT MORE
25 THAN ONE FELONY AND THAT WAS NOT A CRIME OF VIOLENCE; AND

26 (II) COMPLETED THE SENTENCE IMPOSED FOR THE CONVICTION,
27 INCLUDING PROBATION.

28 (A-1) A PETITION FOR EXPUNGEMENT BASED ON THE COMPLETION OF THE
29 SENTENCE, INCLUDING PROBATION, THAT WAS IMPOSED FOR THE CONVICTION OF A
30 CRIMINAL ACT THAT WAS NOT MORE THAN ONE FELONY AND THAT WAS NOT A
31 CRIME OF VIOLENCE MAY BE FILED IMMEDIATELY AFTER THE COMPLETION OF THE
32 SENTENCE.

33 (d) (1) The court shall have a copy of a petition for expungement served on
34 the State's Attorney.

1 (2) Unless the State's Attorney files an objection to the petition for
2 expungement within 30 days after the petition is served, the court shall pass an order
3 requiring the expungement of all police records and court records about the charge.

4 (e) (1) If the State's Attorney files a timely objection to the petition, the
5 court shall hold a hearing.

6 (2) If the court at the hearing finds that the person is entitled to
7 expungement, the court shall order the expungement of all police records and court
8 records about the charge.

9 (3) If the court finds that the person is not entitled to expungement, the
10 court shall deny the petition.

11 (4) The person is not entitled to expungement if:

12 (i) the petition is based on the entry of probation before judgment,
13 a nolle prosequi, or a stet, or the grant of a pardon by the Governor; and

14 (ii) the person:

15 1. since the full and unconditional pardon or entry, has been
16 convicted of a crime other than a minor traffic violation; or

17 2. is a defendant in a pending criminal proceeding.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2002.