

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 624  
Judiciary

(Delegate Carter, *et al.*)

Judicial Proceedings

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Criminal Procedure - Expungement - Notice to Defendant

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This bill provides that, in a criminal case, when all of the charges against the defendant are disposed of by acquittal, dismissal, probation before judgment, *nolle prosequi*, or stet, the court shall advise the defendant that the defendant may be entitled to expunge the records relating to the charge(s) in accordance with State law. Failure to provide such notice does not affect the legality of the sentence or disposition of the case.

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Fiscal Summary

**State Effect:** Potential significant increase in general fund revenues and expenditures, if the bill results in a substantial number of additional requests for expungement.

**Local Effect:** Potential significant increase in local revenue revenues and expenditures, if the bill results in a substantial number of additional requests for expungement. **The bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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Analysis

**Current Law:** A person who has been charged with the commission of a crime may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State, under various circumstances listed in the statute. These grounds include acquittal, dismissal of charges, entry of probation before judgment, entry of *nolle prosequi*, stet of charge, and gubernatorial pardon.

A person is not entitled to expungement if the petition is based on the entry of probation before judgment, a *nolle prosequi*, a stet, or the grant of a pardon by the Governor, if the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding. A petition based on an acquittal, a *nolle prosequi*, or a dismissal may not be filed within three years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.

“Expungement” with regard to a court record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of that record, or the part of it that provides access.

**State Revenues:** Except for cases that result in an acquittal, a petition for expungement filed with the courts costs \$30.

The District Court disposed of 197,593 cases in fiscal 2003. Of these, 117,680, or 60%, resulted in an acquittal, dismissal, probation before judgment, *nolle prosequi*, or stet. The District Court processed approximately 16,500 petitions for expungement in fiscal 2003. While it cannot be predicted with certainty how many additional petitions would be submitted as a result of this bill, for illustrative purposes only, if an additional 10,000 defendants sought expungement, that would result in additional general fund revenues of \$300,000.

**State Expenditures:** If the bill results in a substantial number of additional petitions for expungement, additional staff could be required. The Department of Public Safety and Correctional Services uses contractual employees, at a salary of \$25,620 per employee, to process expungements. Each employee processes approximately 1,350 expungements per month. The District Court hires GS8 clerks to process expungements, at a cost (including fringe benefits and operating costs) of \$32,300 per year. Related printing, postage, storage, and copying costs would also increase.

**Local Fiscal Effect:** Local jurisdictions would receive additional revenue from the \$30 fee for petitions filed with a circuit court. Local expenditures would also increase, if the bill results in additional requests for expungements.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), Department of Natural Resources, Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2004  
ncs/jr Revised - House Third Reader - March 25, 2004  
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Analysis by: Rita A. Reimer

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510