

HOUSE BILL 10

E2
HB 64/06 – JUD

(PRE-FILED)

71r0496

By: **Delegate Haynes**

Requested: October 30, 2006

Introduced and read first time: January 10, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Police Records – Arrest Without**
3 **Charge – Automatic**

4 FOR the purpose of altering a provision of law so as to make certain procedures
5 relating to expungement of certain police records applicable only to certain
6 arrests, detentions, or confinements occurring before a certain date;
7 establishing that for certain arrests, detentions, or confinements occurring on or
8 after a certain date, the person arrested, detained, or confined is entitled to
9 expungement of certain police records; requiring a certain law enforcement unit
10 to take certain actions within a certain amount of time after release of a certain
11 person entitled to expungement of a certain police record; requiring certain
12 entities to take certain actions within a certain amount of time after receipt of a
13 certain notice of expungement; authorizing a certain person to use a certain
14 legal remedy and recover certain fees and costs under certain circumstances;
15 prohibiting a person who is entitled to expungement of certain police records
16 under certain circumstances from being required to pay a certain fee or costs;
17 and generally relating to expungement of police records.

18 BY repealing and reenacting, with amendments,
19 Article – Criminal Procedure
20 Section 10–102(a) and 10–103
21 Annotated Code of Maryland
22 (2001 Volume and 2006 Supplement)

23 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Procedure
2 Section 10–103.1
3 Annotated Code of Maryland
4 (2001 Volume and 2006 Supplement)

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

7 **Article – Criminal Procedure**

8 10–102.

9 (a) A police record or a court record [may be expunged] **IS SUBJECT TO**
10 **EXPUNGEMENT** under this subtitle.

11 10–103.

12 (a) **[A] FOR ARRESTS, DETENTIONS, OR CONFINEMENTS OCCURRING**
13 **BEFORE OCTOBER 1, 2007, A** person who is arrested, detained, or confined by a law
14 enforcement unit for the suspected commission of a crime and then is released without
15 being charged with the commission of a crime may:

16 (1) give written notice of these facts to a law enforcement unit that the
17 person believes may have a police record about the matter; and

18 (2) request the expungement of the police record.

19 (b) (1) Except as provided in paragraph (2) of this subsection, a person
20 may not give notice under this subtitle before the statute of limitations expires for all
21 tort claims that arise from the incident.

22 (2) (i) A person may give notice before the statute of limitations
23 expires if the person attaches to the notice a written general waiver and release, in
24 legal form, of all tort claims that the person has arising from the incident.

25 (ii) The notice and waiver are not subject to expungement.

26 (3) The law enforcement unit shall keep the notice and waiver at least
27 until any applicable statute of limitations expires.

28 (4) The person shall give the notice within 8 years after the date of the
29 incident.

1 (c) (1) On receipt of a timely filed notice, the law enforcement unit
2 promptly shall investigate and try to verify the facts stated in the notice.

3 (2) If the law enforcement unit finds the facts are true, the law
4 enforcement unit shall:

5 (i) search diligently for each police record about the arrest,
6 detention, or confinement of the person;

7 (ii) expunge each police record it has about the arrest,
8 detention, or confinement within 60 days after receipt of the notice; and

9 (iii) send a copy of the notice and the law enforcement unit's
10 verification of the facts in the notice to:

11 1. the Central Repository;

12 2. each booking facility or law enforcement unit that the
13 law enforcement unit believes may have a police record about the arrest, detention, or
14 confinement; and

15 3. the person requesting expungement.

16 (d) Within 30 days after receipt of the notice, the Central Repository, booking
17 facility, and any other law enforcement unit shall search diligently for and expunge a
18 police record about the arrest, detention, or confinement.

19 (e) If the law enforcement unit to which the person has sent notice finds that
20 the person is not entitled to an expungement of the police record, the law enforcement
21 unit, within 60 days after receipt of the notice, shall advise the person in writing of:

22 (1) the denial of the request for expungement; and

23 (2) the reasons for the denial.

24 (f) (1) (i) If a request by the person for expungement of a police record
25 is denied under subsection (e) of this section, the person may apply for an order of
26 expungement in the District Court that has proper venue against the law enforcement
27 unit.

28 (ii) The person shall file the application within 30 days after the
29 written notice of the denial is mailed or delivered to the person.

1 **(II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT**
2 **THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD**
3 **ABOUT THE ARREST, DETENTION, OR CONFINEMENT; AND**

4 **(III) THE PERSON ENTITLED TO EXPUNGEMENT.**

5 **(C) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL**
6 **REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT**
7 **SHALL:**

8 **(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE**
9 **RECORD ABOUT THE ARREST, DETENTION, OR CONFINEMENT OF THE PERSON;**
10 **AND**

11 **(2) ADVISE IN WRITING THE PERSON ENTITLED TO**
12 **EXPUNGEMENT OF COMPLIANCE WITH THE ORDER.**

13 **(D) IF A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE**
14 **CENTRAL REPOSITORY FAILS TO EXPUNGE A POLICE RECORD AS REQUIRED**
15 **UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE PERSON ENTITLED TO**
16 **EXPUNGEMENT MAY:**

17 **(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL**
18 **REMEDY; AND**

19 **(2) RECOVER COURT COSTS AND REASONABLE ATTORNEY'S FEES.**

20 **(E) A PERSON WHO IS ENTITLED TO EXPUNGEMENT UNDER THIS**
21 **SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION**
22 **WITH THE EXPUNGEMENT.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.