

# HOUSE BILL 1181

D4

9lr3128  
CF SB 467

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By: **Delegate Simmons**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Domestic Violence - Expungement of Records**

3 FOR the purpose of requiring a court, after a certain hearing, to order the  
4 expungement of certain court records under certain circumstances; authorizing  
5 a respondent in a certain proceeding for relief from abuse to file a petition to  
6 expunge court records relating to the proceeding under certain circumstances;  
7 requiring the petition to be filed in a certain court; requiring the petition to be  
8 served on certain persons; requiring the court to hold a hearing if an objection is  
9 filed within a certain time; requiring the court to order the expungement of all  
10 court records about the proceeding under certain circumstances; providing a  
11 certain exception; requiring certain custodians to notify the court and the  
12 person seeking expungement of compliance with the order; defining certain  
13 terms; and generally relating to expungement of certain court records.

14 BY adding to

15 Article – Family Law

16 Section 4–512

17 Annotated Code of Maryland

18 (2006 Replacement Volume and 2008 Supplement)

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

21 **Article – Family Law**

22 **4–512.**

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
24 MEANINGS INDICATED.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) (I) **“COURT RECORD” MEANS AN OFFICIAL RECORD OF A**  
2 **COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT**  
3 **PERSONNEL KEEPS.**

4                   (II) **“COURT RECORD” INCLUDES:**

5                           1. **AN INDEX, DOCKET ENTRY, PETITION,**  
6 **MEMORANDUM, TRANSCRIPTION OF PROCEEDINGS, ELECTRONIC RECORDING,**  
7 **ORDER, AND JUDGMENT; AND**

8                           2. **ANY ELECTRONIC INFORMATION ABOUT A**  
9 **PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.**

10           (3) **“EXPUNGE” MEANS TO REMOVE INFORMATION FROM PUBLIC**  
11 **INSPECTION IN ACCORDANCE WITH THIS SECTION.**

12           (4) **“EXPUNGEMENT” MEANS:**

13                   (I) **WITH RESPECT TO A RECORD KEPT IN A COURT HOUSE,**  
14 **REMOVAL TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE**  
15 **A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND**

16                   (II) **WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A**  
17 **PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY,**  
18 **REMOVAL OF THE INFORMATION FROM THE WEBSITE.**

19           (B) (1) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
20 **SUBSECTION, AFTER A TEMPORARY OR FINAL PROTECTIVE ORDER HEARING,**  
21 **THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL COURT RECORDS ABOUT**  
22 **THE PROCEEDING IF:**

23                   (I) **BOTH PARTIES APPEARED BEFORE THE COURT AT THE**  
24 **HEARING; AND**

25                   (II) **THE COURT FINDS BY CLEAR AND CONVINCING**  
26 **EVIDENCE THAT:**

27                           1. **THE ALLEGED ABUSE DID NOT OCCUR; AND**

28                           2. **THE PETITION FOR RELIEF FROM ABUSE WAS**  
29 **FILED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION.**

30           (2) **INFORMATION ABOUT THE PROCEEDING MAY NOT BE**  
31 **REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.**

1           (C) UNLESS A TEMPORARY PROTECTIVE ORDER OR A FINAL  
2 PROTECTIVE ORDER WAS ENTERED AFTER A HEARING AT WHICH THE  
3 RESPONDENT HAD THE OPPORTUNITY TO BE HEARD, THE RESPONDENT IN A  
4 PROCEEDING UNDER THIS SUBTITLE MAY FILE A PETITION TO EXPUNGE ALL  
5 COURT RECORDS RELATING TO THE PROCEEDING.

6           (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
7 SUBSECTION, THE PETITION SHALL BE FILED IN THE COURT IN WHICH THE  
8 PROCEEDING BEGAN.

9           (2) IF THE PROCEEDING BEGAN IN ONE COURT AND WAS  
10 TRANSFERRED TO ANOTHER COURT, THE PETITION SHALL BE FILED IN THE  
11 COURT TO WHICH THE PROCEEDING WAS TRANSFERRED.

12           (E) (1) A COPY OF A PETITION FOR EXPUNGEMENT SHALL BE  
13 SERVED, IN ACCORDANCE WITH THE MARYLAND RULES GOVERNING SERVICE  
14 OF PROCESS IN A CIVIL ACTION, ON THE PERSON WHO FILED THE PETITION FOR  
15 RELIEF FROM ABUSE UNDER THIS SUBTITLE AND, IF APPLICABLE, THE  
16 PERSON'S ATTORNEY.

17           (2) IF AN OBJECTION TO THE PETITION FOR EXPUNGEMENT IS  
18 FILED WITHIN THE TIME REQUIRED UNDER THE MARYLAND RULES FOR FILING  
19 AN ANSWER TO AN ORIGINAL PLEADING IN A CIVIL ACTION, THE COURT SHALL  
20 HOLD A HEARING.

21           (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
22 SUBSECTION, IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT  
23 ABUSE DID NOT OCCUR AND THAT THE PETITION FOR RELIEF FROM ABUSE  
24 UNDER THIS SUBTITLE WAS FILED IN BAD FAITH OR WITHOUT SUBSTANTIAL  
25 JUSTIFICATION, THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL COURT  
26 RECORDS ABOUT THE PROCEEDING.

27           (2) INFORMATION ABOUT THE PROCEEDING MAY NOT BE  
28 REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.

29           (G) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION  
30 (B) OR (F) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE  
31 SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE, IN WRITING, THE  
32 COURT AND THE PERSON WHO IS SEEKING EXPUNGEMENT OF COMPLIANCE  
33 WITH THE ORDER.

34           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 October 1, 2009.