

HOUSE BILL 1181

D4

9lr3128
CF SB 467

By: **Delegate Simmons**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **~~Domestic Violence~~ Denial or Dismissal of Domestic Violence Petitions -**
3 **Expungement of Records**

4 FOR the purpose of ~~requiring a court, after a certain hearing, to order the~~
5 ~~expungement of certain court records under certain circumstances;~~ authorizing
6 a respondent in a certain domestic violence proceeding ~~for relief from abuse~~ to
7 file a ~~petition~~ written request to expunge court records relating to the
8 proceeding under certain circumstances; ~~requiring the petition to be filed in a~~
9 ~~certain court; requiring the petition to be served on certain persons; requiring~~
10 ~~the court to hold a hearing if an objection is filed within a certain time~~ providing
11 that a certain request for expungement may not be filed within a certain time
12 except under certain circumstances; requiring the court to order the
13 expungement of all court records ~~about~~ relating to the proceeding under certain
14 circumstances; providing a certain exception; requiring certain custodians to
15 notify the court and the ~~person seeking expungement~~ respondent of compliance
16 with the order; defining certain terms; and generally relating to domestic
17 violence and the expungement of certain court records.

18 BY adding to

19 Article – Family Law

20 Section 4-512

21 Annotated Code of Maryland

22 (2006 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article - Family Law

2 4-512.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.

5 (2) (I) "COURT RECORD" MEANS AN OFFICIAL RECORD OF A
6 COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT
7 PERSONNEL KEEPS.

8 (II) "COURT RECORD" INCLUDES:

9 1. AN INDEX, DOCKET ENTRY, PETITION,
10 MEMORANDUM, TRANSCRIPTION OF PROCEEDINGS, ELECTRONIC RECORDING,
11 ORDER, AND JUDGMENT; AND

12 2. ANY ELECTRONIC INFORMATION ABOUT A
13 PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

14 (3) "EXPUNGE" MEANS TO REMOVE INFORMATION FROM PUBLIC
15 INSPECTION IN ACCORDANCE WITH THIS SECTION.

16 (4) "EXPUNGEMENT" MEANS:

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

20 (II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A
21 PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY,
22 REMOVAL OF THE INFORMATION FROM THE WEBSITE.

23 ~~(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
24 ~~SUBSECTION, AFTER A TEMPORARY OR FINAL PROTECTIVE ORDER HEARING,~~
25 ~~THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL COURT RECORDS ABOUT~~
26 ~~THE PROCEEDING IF:~~

27 ~~(I) BOTH PARTIES APPEARED BEFORE THE COURT AT THE~~
28 ~~HEARING; AND~~

29 ~~(II) THE COURT FINDS BY CLEAR AND CONVINCING~~
30 ~~EVIDENCE THAT:~~

1 ~~1. THE ALLEGED ABUSE DID NOT OCCUR, AND~~

2 ~~2. THE PETITION FOR RELIEF FROM ABUSE WAS~~
3 ~~FILED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION.~~

4 ~~(2) INFORMATION ABOUT THE PROCEEDING MAY NOT BE~~
5 ~~REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.~~

6 ~~(C) UNLESS A TEMPORARY PROTECTIVE ORDER OR A FINAL~~
7 ~~PROTECTIVE ORDER WAS ENTERED AFTER A HEARING AT WHICH THE~~
8 ~~RESPONDENT HAD THE OPPORTUNITY TO BE HEARD, THE RESPONDENT IN A~~
9 ~~PROCEEDING UNDER THIS SUBTITLE MAY FILE A PETITION TO EXPUNGE ALL~~
10 ~~COURT RECORDS RELATING TO THE PROCEEDING.~~

11 ~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
12 ~~SUBSECTION, THE PETITION SHALL BE FILED IN THE COURT IN WHICH THE~~
13 ~~PROCEEDING BEGAN.~~

14 ~~(2) IF THE PROCEEDING BEGAN IN ONE COURT AND WAS~~
15 ~~TRANSFERRED TO ANOTHER COURT, THE PETITION SHALL BE FILED IN THE~~
16 ~~COURT TO WHICH THE PROCEEDING WAS TRANSFERRED.~~

17 ~~(E) (1) A COPY OF A PETITION FOR EXPUNGEMENT SHALL BE~~
18 ~~SERVED, IN ACCORDANCE WITH THE MARYLAND RULES GOVERNING SERVICE~~
19 ~~OF PROCESS IN A CIVIL ACTION, ON THE PERSON WHO FILED THE PETITION FOR~~
20 ~~RELIEF FROM ABUSE UNDER THIS SUBTITLE AND, IF APPLICABLE, THE~~
21 ~~PERSON'S ATTORNEY.~~

22 ~~(2) IF AN OBJECTION TO THE PETITION FOR EXPUNGEMENT IS~~
23 ~~FILED WITHIN THE TIME REQUIRED UNDER THE MARYLAND RULES FOR FILING~~
24 ~~AN ANSWER TO AN ORIGINAL PLEADING IN A CIVIL ACTION, THE COURT SHALL~~
25 ~~HOLD A HEARING.~~

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

32 (B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR
33 DISMISSED AT AN INTERIM, A TEMPORARY, OR A FINAL PROTECTIVE ORDER
34 STAGE OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A
35 WRITTEN REQUEST TO EXPUNGE ALL COURT RECORDS RELATING TO THE
36 PROCEEDING.

1 **(C) A REQUEST FOR EXPUNGEMENT UNDER THIS SECTION MAY NOT BE**
 2 **FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION,**
 3 **UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND**
 4 **RELEASE OF ALL THE RESPONDENT'S TORT CLAIMS RELATED TO THE**
 5 **PROCEEDING UNDER THIS SUBTITLE.**

6 **(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 7 **SUBSECTION, IF THE COURT FINDS THAT THE PETITION WAS DENIED OR**
 8 **DISMISSED AT EITHER THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE**
 9 **ORDER STAGE OF THE PROCEEDING, THE COURT SHALL ORDER THE**
 10 **EXPUNGEMENT OF ALL COURT RECORDS RELATING TO THE PROCEEDING.**

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

13 **~~(C)~~ (E) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER**
 14 **SUBSECTION ~~(B) OR (F)~~ (D) OF THIS SECTION, EACH CUSTODIAN OF COURT**
 15 **RECORDS THAT ARE SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE,**
 16 **IN WRITING, THE COURT AND THE ~~PERSON WHO IS SEEKING EXPUNGEMENT~~**
 17 **RESPONDENT OF COMPLIANCE WITH THE ORDER.**

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.