

SENATE BILL 904

E2

9lr3026
CF HB 636

By: **Senators Muse, Exum, Gladden, Harrington, Jones, Kelley, Peters, and Pugh**

Introduced and read first time: February 12, 2009

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of authorizing a person convicted of a nonviolent crime, with certain
4 exceptions, who completed the sentence imposed for the conviction, including
5 probation, to petition for the expungement of certain records maintained by the
6 State or a political subdivision of the State pertaining to the conviction;
7 providing that a person convicted of a certain nonviolent crime of a sexual
8 nature is not entitled to an expungement under certain circumstances;
9 prohibiting the petition from being filed until after a certain time period;
10 providing that a person is not entitled to an expungement under certain
11 circumstances; and generally relating to the expungement of police records,
12 court records, and other records maintained by the State or a political
13 subdivision of the State.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Procedure
16 Section 10–105(a) and (e)(4)
17 Annotated Code of Maryland
18 (2008 Replacement Volume)

19 BY adding to
20 Article – Criminal Procedure
21 Section 10–105(c)(8)
22 Annotated Code of Maryland
23 (2008 Replacement Volume)

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

26 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10–105.

2 (a) A person who has been charged with the commission of a crime, including
3 a violation of the Transportation Article for which a term of imprisonment may be
4 imposed, or who has been charged with a civil offense or infraction, except a juvenile
5 offense, as a substitute for a criminal charge may file a petition listing relevant facts
6 for expungement of a police record, court record, or other record maintained by the
7 State or a political subdivision of the 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
11 charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5
12 or § 3–211 of the Criminal Law Article;

13 (4) a nolle prosequi or nolle prosequi with the requirement of drug or
14 alcohol treatment is entered;

15 (5) the court indefinitely postpones trial of a criminal charge by
16 marking the criminal charge “stet” or stet with the requirement of drug or alcohol
17 abuse treatment on the docket;

18 (6) the case is compromised under § 3–207 of the Criminal Law
19 Article;

20 (7) the charge was transferred to the juvenile court under § 4–202 of
21 this article;

22 (8) the person:

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

25 (ii) is granted a full and unconditional pardon by the Governor;
26 [or]

27 (9) the person was convicted of a crime under any State or local law
28 that prohibits:

29 (i) urination or defecation in a public place;

30 (ii) panhandling or soliciting money;

31 (iii) drinking an alcoholic beverage in a public place;

1 (iv) obstructing the free passage of another in a public place or a
2 public conveyance;

3 (v) sleeping on or in park structures, such as benches or
4 doorways;

5 (vi) loitering;

6 (vii) vagrancy;

7 (viii) riding a transit vehicle without paying the applicable fare or
8 exhibiting proof of payment; or

9 (ix) except for carrying or possessing an explosive, acid,
10 concealed weapon, or other dangerous article as provided in § 7-705(b)(6) of the
11 Transportation Article, any of the acts specified in § 7-705 of the Transportation
12 Article; **OR**

13 **(10) THE PERSON IS CONVICTED OF ONLY ONE CRIMINAL ACT, AND**
14 **THAT ACT IS NOT:**

15 **(I) A CRIME OF VIOLENCE; OR**

16 **(II) A VIOLATION OF:**

17 **1. § 3-307, § 3-308, § 3-314, § 3-322, § 3-324, OR §**
18 **3-602 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A MINOR**
19 **13 YEARS OLD OR OLDER; OR**

20 **2. A PROVISION UNDER TITLE 11 OF THE CRIMINAL**
21 **LAW ARTICLE THAT IS A FELONY.**

22 **(c) (8) A PETITION FOR EXPUNGEMENT BASED ON THE CONVICTION**
23 **OF A CRIME SPECIFIED IN SUBSECTION (A)(10) OF THIS SECTION MAY NOT BE**
24 **FILED UNTIL THE LATER OF:**

25 **(I) 4 YEARS AFTER THE CONVICTION; OR**

26 **(II) THE SATISFACTORY COMPLETION OF THE SENTENCE,**
27 **INCLUDING PROBATION, THAT WAS IMPOSED FOR THE CONVICTION.**

28 **(e) (4) The person is not entitled to expungement if:**

29 **(i) the petition is based on the entry of probation before**
30 **judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of**
31 **drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse**

1 treatment, a conviction for a crime specified in subsection (a)(9) **OR (10)** of this
2 section, or the grant of a pardon by the Governor; and

3 (ii) the person:

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

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

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