

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1292
Judiciary

(Delegates Carter and Oaks)

Judicial Proceedings

Criminal Procedure - Charges Not Resulting in Conviction - Shielding

This bill authorizes a person who was convicted of one or more charges in a unit to file a petition to shield information regarding other charges in the unit that were disposed of by acquittal, dismissal, *nolle prosequi*, or *stet*. “Shield” is defined as removing information from a public website and public computer terminals maintained by the Maryland Judiciary.

A petition must be filed with the Administrative Office of the Courts (AOC). A petition to shield information relating to a *stetted* charge may not be filed until the expiration of three years since the time the *stet* was entered. Within 30 days after receipt of a petition filed in accordance with the bill, AOC must shield the information. AOC may assess a reasonable fee for a petition filed under the bill to offset implementation costs.

Fiscal Summary

State Effect: General fund expenditures increase by \$135,400 in FY 2013 for the Judiciary to reprogram its computers. These costs may be offset by an increase in general fund revenues from petition fees. Potential increase in general fund expenditures in FY 2014 and future years for the Judiciary to process petitions, offset by an increase in general fund revenues from petition fees.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Under the Criminal Procedure Article, a person who has been charged with the commission of a crime may file a petition for expungement listing the relevant facts 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. Individuals convicted of specified public nuisance crimes are also eligible for expungement of the associated criminal records under certain circumstances.

If two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge or nuisance conviction in a unit, the person is not entitled to expungement of any other charge in the unit.

Expungement of 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; and
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

State Fiscal Effect: The Judiciary currently has the ability to shield names and addresses from view on its public websites and computer terminals. The Judiciary advises that accommodating the bill's requirements will necessitate 2,264 hours of reprogramming for eight computer systems, at an estimated cost of \$135,400 in fiscal 2013.

The Judiciary may also need to increase staff if the bill results in a significant increase in the number of petitions for shielding. The Judiciary also advises that petitions for shielding (typically applicable to peace orders and domestic violence protective orders) are currently filed and processed with the court clerk's office, not with AOC as required under the bill. The estimate assumes that AOC will assess a fee to cover the cost of implementing the shielding procedure, as authorized by the bill.

Additional Information

Prior Introductions: HB 1279 of 2011, a similar bill, passed the House and was referred to the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: SB 494 (Senator Gladden, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of State Police, Maryland Department of Transportation, Department of Legislative Services

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