

Chapter 409

(House Bill 1220)

AN ACT concerning

Invalidation and Destruction of Unexecuted Warrant, Summons, or Other Criminal Process – Failure to Appear Designation

FOR the purpose of specifying that a certain provision of law relating to invalidation and destruction of an unexecuted warrant, summons, or other criminal process may not be construed to nullify or remove a failure to appear designation that has been placed on an individual's driving record by the Motor Vehicle Administration; limiting the circumstances under which a certain State's Attorney may argue against the invalidation and destruction of a certain warrant, summons, or other criminal process; making clarifying and stylistic changes; and generally relating to invalidation and destruction of an unexecuted warrant, summons, or other criminal process.

BY repealing and reenacting, with amendments,
 Article – Criminal Procedure
 Section 4–109
 Annotated Code of Maryland
 (2008 Replacement Volume and 2012 Supplement)

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

Article – Criminal Procedure

4–109.

(A) THIS SECTION APPLIES ONLY TO A WARRANT, SUMMONS, OR OTHER CRIMINAL PROCESS FOR A MISDEMEANOR OFFENSE.

~~(a)~~ **(B)** A law enforcement agency may make a written request for the State's Attorney within the jurisdiction of the law enforcement agency to petition the administrative judge of the district to have a warrant, summons, or other criminal process ~~for a misdemeanor offense~~ in the possession of the law enforcement agency invalidated and destroyed due to the age of the unexecuted warrant, summons, or other criminal process and unavailability of the defendant, or other special circumstances, if:

(1) the warrant, summons, or other criminal process was issued for the arrest of the defendant in order that the defendant might stand for trial and has remained unexecuted for at least 5 years;

(2) the warrant, summons, or other criminal process was issued for the failure of the defendant to make a deferred payment of a fine or costs as ordered by the court and has remained unexecuted for at least 5 years;

(3) the warrant, summons, or other criminal process was issued for a violation of probation and has remained unexecuted for at least 5 years;

(4) except as provided in item (5) of this subsection, the warrant, summons, or other criminal process was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 5 years; or

(5) the defendant was released on bail posted by a private surety, and the warrant was issued for the arrest of the defendant for the failure of the defendant to appear as directed by the court and has remained unexecuted for at least 10 years.

~~(B)~~ **(C)** (1) On receipt of a request made under subsection ~~(a)~~ **(B)**(1), ~~(a)~~ **(B)**(2), ~~(a)~~ **(B)**(3), or ~~(a)~~ **(B)**(4) of this section, the State's Attorney:

(i) if the warrant, summons, or other criminal process has remained unexecuted for more than 5 years but less than 7 years, may petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process; and

(ii) if the warrant, summons, or other criminal process has remained unexecuted for at least 7 years, shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other process.

(2) On receipt of a request made under subsection ~~(a)~~ **(B)**(5) of this section, the State's Attorney shall petition the Administrative Judge of the District for the invalidation and destruction of the unexecuted warrant, summons, or other criminal process.

~~(D)~~ **(D)** The State's Attorney may argue against the invalidation and destruction of [the unexecuted] A warrant, summons, or other criminal process **OF WHICH THE STATE'S ATTORNEY HAS PETITIONED THE COURT FOR INVALIDATION AND DESTRUCTION UNDER SUBSECTION ~~(B)~~ (C)(1)(II) OR (2) OF THIS SECTION** due to a justifiable continuing active investigation of the case.

~~(d)~~ **(E)** Unless preservation is determined by the court to be justifiable, the court shall order the invalidation and destruction of [an] **THE** unexecuted warrant [for a misdemeanor offense], summons, or other criminal process in accordance with § 1-605 of the Courts and Judicial Proceedings Article.

~~(e)~~ **(F)** An arrest may not be made under the authority of a warrant, **SUMMONS**, or other criminal process that has been ordered invalidated and destroyed.

~~(f)~~ **(G)** The State's Attorney may enter a nolle prosequi or place the case on the stet docket at the time of the court order under this section.

~~(g)~~ **(H)** Nothing in this section may be construed to:

(1) prevent the reissuance of a warrant, summons, or other criminal process;

(2) affect the time within which a prosecution for a misdemeanor may be commenced; [or]

(3) NULLIFY OR REMOVE A FAILURE TO APPEAR DESIGNATION THAT HAS BEEN PLACED ON AN INDIVIDUAL'S DRIVING RECORD BY THE MOTOR VEHICLE ADMINISTRATION; OR

~~[(3)]~~ **(4)** affect any pending criminal charge.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.