

HOUSE BILL 480

E2
HB 237/12 – JUD

3lr2013

By: **Delegates Stukes, Conaway, Haynes, Mitchell, Oaks, B. Robinson, and Walker**

Introduced and read first time: January 30, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Explanation of Expungement Provisions Relating to**
3 **Proposed Disposition of Charge**

4 FOR the purpose of altering a certain provision of law relating to the expungement of
5 criminal records to require a court, before disposing of a charge against a
6 defendant, to provide a detailed explanation to the defendant of certain
7 expungement provisions; requiring the court, after providing the explanation
8 required by this Act, to give the defendant the opportunity to reject a certain
9 disposition; providing for the effective date of certain provisions of this Act;
10 providing for the termination of certain provisions of this Act; and generally
11 relating to expungement.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 6–232
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Procedure
19 Section 6–232
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2012 Supplement)
22 (As enacted by Chapter 337 of the Acts of the General Assembly of 2008)

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

25 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 6-232.

2 (a) (1) In a criminal case, [when all of the charges against the defendant
3 are disposed of by acquittal, dismissal, probation before judgment, nolle prosequi, or
4 stet,] **BEFORE A CHARGE AGAINST THE DEFENDANT IS DISPOSED OF**, the court
5 shall [advise the defendant that the defendant may be entitled to expunge the records
6 and any DNA sample and DNA record relating to the charge or charges against the
7 defendant in accordance with] **PROVIDE A DETAILED EXPLANATION TO THE**
8 **DEFENDANT OF THE EXPUNGEMENT PROVISIONS CONTAINED IN** Title 10, Subtitle
9 1 of this article and Title 2, Subtitle 5 of the Public Safety Article **RELATING TO THE**
10 **PROPOSED DISPOSITION OF THE CHARGE.**

11 (2) **AFTER PROVIDING THE EXPLANATION REQUIRED UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL GIVE THE DEFENDANT**
13 **THE OPPORTUNITY TO REJECT A DISPOSITION OF PROBATION BEFORE**
14 **JUDGMENT, NOLLE PROSEQUI, PLEA OF GUILTY, OR STET.**

15 (b) The failure of a court to comply with subsection (a) of this section does
16 not affect the legality or efficacy of the sentence or disposition of the case.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
18 read as follows:

19 **Article – Criminal Procedure**

20 6-232.

21 (a) (1) In a criminal case, [when all of the charges against the defendant
22 are disposed of by acquittal, dismissal, probation before judgment, nolle prosequi, or
23 stet,] **BEFORE A CHARGE AGAINST THE DEFENDANT IS DISPOSED OF**, the court
24 shall [advise the defendant that the defendant may be entitled to expunge the records
25 relating to the charge or charges against the defendant in accordance with] **PROVIDE**
26 **A DETAILED EXPLANATION TO THE DEFENDANT OF THE EXPUNGEMENT**
27 **PROVISIONS CONTAINED IN** Title 10, Subtitle 1 of this article **RELATING TO THE**
28 **PROPOSED DISPOSITION OF THE CHARGE.**

29 (2) **AFTER PROVIDING THE EXPLANATION REQUIRED UNDER**
30 **PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL GIVE THE DEFENDANT**
31 **THE OPPORTUNITY TO REJECT A DISPOSITION OF PROBATION BEFORE**
32 **JUDGMENT, NOLLE PROSEQUI, PLEA OF GUILTY, OR STET.**

33 (b) The failure of a court to comply with subsection (a) of this section does
34 not affect the legality or efficacy of the sentence or disposition of the case.

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act
2 shall take effect on the taking effect of the termination provision specified in Section 4
3 of Chapter 337 of the Acts of the General Assembly of 2008. If that termination
4 provision takes effect, Section 1 of this Act shall be abrogated and of no further force
5 and effect. This Act may not be interpreted to have any effect on that termination
6 provision.

7 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
8 of Section 3 of this Act, this Act shall take effect October 1, 2013.