

SENATE BILL 701

E2

3lr2521

By: **Senators Jones–Rodwell, Frosh, Currie, Forehand, McFadden, Muse, and Pugh**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Records – Shielding – Nonviolent Misdemeanor Convictions**

3 FOR the purpose of authorizing a person to request that court records and police
4 records relating to a certain conviction be shielded at a certain time; providing
5 that, if a certain person is convicted of a new crime during a certain time period,
6 a certain original conviction is not eligible for shielding unless the new
7 conviction becomes eligible for shielding; requiring the Court of Appeals, by
8 rule, to establish procedures relating to the filing of a certain request for
9 shielding; prohibiting the Maryland Judiciary Case Search from in any way
10 referring to the existence of specific records shielded in accordance with this
11 Act; providing that a conviction that has been shielded in accordance with this
12 Act may not be considered a conviction for certain purposes; prohibiting a
13 person authorized to access a shielded record under this Act from disclosing any
14 information from a shielded record to a person who is not authorized to access
15 shielded records under this Act; prohibiting an employer from requiring a
16 person who applies for employment to disclose certain shielded information at a
17 certain time or discharging or refusing to hire a person solely because the
18 person refused to disclose certain information, with a certain exception;
19 prohibiting an educational institution from requiring a person who applies for
20 admission to the institution to disclose certain shielded information at a certain
21 time or expelling or refusing to admit a person solely because the person refused
22 to disclose certain information; prohibiting a unit, an official, or an employee of
23 the State or a political subdivision of the State from requiring a person who
24 applies for a license, permit, registration, or governmental service to disclose
25 certain shielded information at a certain time or denying a person's application
26 for a license, permit, registration, or governmental service solely because the
27 person refused to disclose certain information; establishing penalties for a
28 violation of this Act; requiring a certain custodian to deny inspection of criminal
29 records and police records relating to the conviction of a crime that has been
30 shielded under this Act; providing that this Act does not apply to a conviction of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 a felony or any misdemeanor requiring registration as a sex offender under
2 certain provisions of law; providing that a shielded record shall remain fully
3 accessible by certain persons; defining certain terms; and generally relating to
4 the shielding of court records and police records.

5 BY adding to
6 Article – Criminal Procedure
7 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3.
8 Shielding”
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2012 Supplement)

11 BY adding to
12 Article – State Government
13 Section 10–616(v)
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2012 Supplement)

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

18 **Article – Criminal Procedure**

19 **SUBTITLE 3. SHIELDING.**

20 **10–301.**

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(B) “COURT RECORD” HAS THE MEANING STATED IN § 10–101 OF THIS**
24 **TITLE.**

25 **(C) “CRIMINAL JUSTICE UNIT” HAS THE MEANING STATED IN § 10–201**
26 **OF THIS TITLE.**

27 **(D) “POLICE RECORD” HAS THE MEANING STATED IN § 10–101 OF THIS**
28 **TITLE.**

29 **(E) “SHIELD” MEANS TO RENDER A COURT RECORD OR POLICE RECORD**
30 **INACCESSIBLE TO MEMBERS OF THE PUBLIC.**

31 **10–302.**

32 **(A) THIS SUBTITLE DOES NOT APPLY TO A CONVICTION OF:**

1 (1) A FELONY;

2 (2) A MISDEMEANOR REQUIRING REGISTRATION AS A SEX
3 OFFENDER UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE; OR

4 (3) A DOMESTICALLY RELATED CRIME UNDER § 6-233 OF THIS
5 ARTICLE.

6 (B) A SHIELDED RECORD SHALL REMAIN FULLY ACCESSIBLE TO:

7 (1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL
8 JUSTICE PURPOSES;

9 (2) PROSPECTIVE EMPLOYERS WHO ARE SUBJECT TO A
10 STATUTORY REQUIREMENT TO INQUIRE INTO AN APPLICANT'S CRIMINAL
11 BACKGROUND FOR PURPOSES OF CARRYING OUT THAT STATUTORY
12 REQUIREMENT;

13 (3) FACILITIES THAT ARE REQUIRED TO INQUIRE INTO AN
14 EMPLOYEE'S OR EMPLOYER'S CRIMINAL BACKGROUND UNDER § 5-561 OF THE
15 FAMILY LAW ARTICLE; AND

16 (4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD
17 AND THAT PERSON'S ATTORNEY.

18 **10-303.**

19 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
20 PERSON MAY REQUEST THAT COURT RECORDS AND POLICE RECORDS RELATING
21 TO A CONVICTION OF THE PERSON BE SHIELDED NO EARLIER THAN 3 YEARS
22 AFTER THE PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION,
23 INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.

24 (B) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE
25 APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OF THIS SECTION,
26 THE ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS THE NEW
27 CONVICTION BECOMES ELIGIBLE FOR SHIELDING.

28 (C) THE COURT OF APPEALS, BY RULE, SHALL ESTABLISH
29 PROCEDURES RELATING TO THE FILING OF A REQUEST FOR SHIELDING IN
30 ACCORDANCE WITH THIS SUBTITLE.

1 **10-304.**

2 **THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER**
3 **TO THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH**
4 **THIS SUBTITLE.**

5 **10-305.**

6 **A CONVICTION THAT HAS BEEN SHIELDED UNDER THIS SUBTITLE MAY**
7 **NOT BE CONSIDERED A CONVICTION FOR PURPOSES OF § 10-105(E)(4)(II)1 OF**
8 **THIS TITLE.**

9 **10-306.**

10 **(A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §**
11 **10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A**
12 **SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS**
13 **SHIELDED RECORDS UNDER § 10-302(B).**

14 **(B) (1) EXCEPT AS PROVIDED IN § 10-302(B)(2) OF THIS SUBTITLE,**
15 **AN EMPLOYER MAY NOT:**

16 **(I) REQUIRE A PERSON WHO APPLIES FOR EMPLOYMENT**
17 **TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN**
18 **APPLICATION, AN INTERVIEW, OR OTHERWISE; OR**

19 **(II) DISCHARGE OR REFUSE TO HIRE A PERSON SOLELY**
20 **BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL**
21 **CHARGES THAT HAVE BEEN SHIELDED.**

22 **(2) AN EDUCATIONAL INSTITUTION MAY NOT:**

23 **(I) REQUIRE A PERSON WHO APPLIES FOR ADMISSION TO**
24 **THE INSTITUTION TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL**
25 **CHARGES IN AN APPLICATION, AN INTERVIEW, OR OTHERWISE; OR**

26 **(II) EXPEL OR REFUSE TO ADMIT A PERSON SOLELY**
27 **BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL**
28 **CHARGES THAT HAVE BEEN SHIELDED.**

29 **(3) A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A**
30 **POLITICAL SUBDIVISION OF THE STATE MAY NOT:**

1 **(I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,**
2 **PERMIT, REGISTRATION, OR GOVERNMENTAL SERVICE TO DISCLOSE SHIELDED**
3 **INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN INTERVIEW,**
4 **OR OTHERWISE; OR**

5 **(II) DENY A PERSON'S APPLICATION FOR A LICENSE,**
6 **PERMIT, REGISTRATION, OR GOVERNMENTAL SERVICE SOLELY BECAUSE THE**
7 **PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL CHARGES**
8 **THAT HAVE BEEN SHIELDED.**

9 **(C) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
10 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
11 **\$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH FOR EACH**
12 **VIOLATION.**

13 **(2) IN ADDITION TO THE PENALTIES PROVIDED IN PARAGRAPH**
14 **(1) OF THIS SUBSECTION, AN OFFICIAL OR EMPLOYEE OF THE STATE OR A**
15 **POLITICAL SUBDIVISION OF THE STATE WHO IS CONVICTED UNDER THIS**
16 **SECTION MAY BE REMOVED OR DISMISSED FROM PUBLIC SERVICE.**

17 **Article – State Government**

18 10–616.

19 **(V) A CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS**
20 **AND POLICE RECORDS RELATING TO THE CONVICTION OF A CRIME THAT HAVE**
21 **BEEN SHIELDED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE**
22 **ARTICLE.**

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