

Chapter 643

(House Bill 854)

AN ACT concerning

Criminal Procedure – Expungement of Records – Not Criminally Responsible

FOR the purpose of authorizing a certain person to file a petition for expungement of certain records if the person was found not criminally responsible under any State or local law that prohibits certain acts; specifying that a petition for expungement based on a finding of not criminally responsible under this Act may not be filed within a certain period of time; providing that a person is not entitled to expungement if the petition is based on a finding of not criminally responsible and the person, since the finding of not criminally responsible, has been convicted of a certain crime or is a defendant in a pending criminal proceeding; and generally relating to expungement of criminal records.

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 10–105(a), (c)(7), and (e)(4)

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

BY adding

Article – Criminal Procedure

Section 10–105(c)(7)

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

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

- (1) the person is acquitted;

- (2) the charge is otherwise dismissed;
 - (3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;
 - (4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;
 - (5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;
 - (6) the case is compromised under § 3–207 of the Criminal Law Article;
 - (7) the charge was transferred to the juvenile court under § 4–202 of this article;
 - (8) the person:
 - (i) is convicted of only one criminal act, and that act is not a crime of violence; and
 - (ii) is granted a full and unconditional pardon by the Governor;
- [or]
- (9) the person was convicted of a crime **OR FOUND NOT CRIMINALLY RESPONSIBLE** under any State or local law that prohibits:
 - (i) urination or defecation in a public place;
 - (ii) panhandling or soliciting money;
 - (iii) drinking an alcoholic beverage in a public place;
 - (iv) obstructing the free passage of another in a public place or a public conveyance;
 - (v) sleeping on or in park structures, such as benches or doorways;
 - (vi) loitering;
 - (vii) vagrancy;

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

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

(10) THE PERSON WAS FOUND NOT CRIMINALLY RESPONSIBLE UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS MISDEMEANOR:

~~(I) ASSAULT;~~

~~(II) POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE;~~

~~(III) TRESPASS;~~

~~(IV) (II) DISTURBING THE PEACE; OR~~

~~(V) (III) TELEPHONE MISUSE.~~

(c) (7) A PETITION FOR EXPUNGEMENT BASED ON A FINDING OF NOT CRIMINALLY RESPONSIBLE UNDER SUBSECTION (A)(9) OR (10) OF THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE FINDING OF NOT CRIMINALLY RESPONSIBLE WAS MADE BY THE COURT.

[(7)](8) A court may grant a petition for expungement at any time on a showing of good cause.

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

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, a conviction for a crime specified in subsection (a)(9) of this section, A FINDING OF NOT CRIMINALLY RESPONSIBLE, or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon, entry, FINDING OF NOT CRIMINALLY RESPONSIBLE, or conviction has been convicted of a crime other than a minor traffic violation; or

2. is a defendant in a pending criminal proceeding.

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

Approved by the Governor, May 16, 2013.