

# HOUSE BILL 896

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By: **Delegates Rosenberg, Carter, and Oaks**  
Introduced and read first time: February 5, 2014  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Convictions**

3 FOR the purpose of authorizing a certain person to file a certain petition for  
4 expungement of a certain record if the person was convicted of a certain crime  
5 and was under a certain age at the time of the conviction; specifying the time  
6 period within which a petition for expungement based on a conviction of a  
7 certain crime may not be filed; making a conforming change; and generally  
8 relating to expungement of criminal records.

9 BY repealing and reenacting, with amendments,  
10 Article – Criminal Procedure  
11 Section 10–105  
12 Annotated Code of Maryland  
13 (2008 Replacement Volume and 2013 Supplement)

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

16 **Article – Criminal Procedure**

17 10–105.

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

24 (1) the person is acquitted;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) the charge is otherwise dismissed;

2 (3) a probation before judgment is entered, unless the person is  
3 charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5  
4 or § 3–211 of the Criminal Law Article;

5 (4) a nolle prosequi or nolle prosequi with the requirement of drug or  
6 alcohol treatment is entered;

7 (5) the court indefinitely postpones trial of a criminal charge by  
8 marking the criminal charge “stet” or stet with the requirement of drug or alcohol  
9 abuse treatment on the docket;

10 (6) the case is compromised under § 3–207 of the Criminal Law  
11 Article;

12 (7) the charge was transferred to the juvenile court under § 4–202 of  
13 this article;

14 (8) the person:

15 (i) is convicted of only one criminal act, and that act is not a  
16 crime of violence; and

17 (ii) is granted a full and unconditional pardon by the Governor;

18 (9) the person was convicted of a crime or found not criminally  
19 responsible under any State or local law that prohibits:

20 (i) urination or defecation in a public place;

21 (ii) panhandling or soliciting money;

22 (iii) drinking an alcoholic beverage in a public place;

23 (iv) obstructing the free passage of another in a public place or a  
24 public conveyance;

25 (v) sleeping on or in park structures, such as benches or  
26 doorways;

27 (vi) loitering;

28 (vii) vagrancy;

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

1 (ix) except for carrying or possessing an explosive, acid,  
2 concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the  
3 Transportation Article, any of the acts specified in § 7–705 of the Transportation  
4 Article; [or]

5 (10) the person was found not criminally responsible under any State or  
6 local law that prohibits misdemeanor:

7 (i) trespass;

8 (ii) disturbing the peace; or

9 (iii) telephone misuse; **OR**

10 **(11) THE PERSON:**

11 **(I) WAS CONVICTED OF A CRIME OTHER THAN:**

12 **1. A MISDEMEANOR LISTED IN ITEM (9) OF THIS**  
13 **SUBSECTION; OR**

14 **2. A CRIME OF VIOLENCE, AS DEFINED IN § 14–101**  
15 **OF THE CRIMINAL LAW ARTICLE; AND**

16 **(II) WAS UNDER THE AGE OF 35 YEARS AT THE TIME OF THE**  
17 **CONVICTION.**

18 (a–1) A person’s attorney or personal representative may file a petition, on  
19 behalf of the person, for expungement under this section if the person died before  
20 disposition of the charge by nolle prosequi or dismissal.

21 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a  
22 person shall file a petition in the court in which the proceeding began.

23 (2) If the proceeding began in one court and was transferred to  
24 another court, the person shall file the petition in the court to which the proceeding  
25 was transferred.

26 (3) (i) If the proceeding in a court of original jurisdiction was  
27 appealed to a court exercising appellate jurisdiction, the person shall file the petition  
28 in the appellate court.

29 (ii) The appellate court may remand the matter to the court of  
30 original jurisdiction.

1 (c) (1) Except as provided in paragraph (2) of this subsection, a petition  
2 for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be  
3 filed within 3 years after the disposition, unless the petitioner files with the petition a  
4 written general waiver and release of all the petitioner's tort claims arising from the  
5 charge.

6 (2) A petition for expungement based on a probation before judgment  
7 or a stet with the requirement of drug or alcohol abuse treatment may not be filed  
8 earlier than the later of:

9 (i) the date the petitioner was discharged from probation or the  
10 requirements of obtaining drug or alcohol abuse treatment were completed; or

11 (ii) 3 years after the probation was granted or stet with the  
12 requirement of drug or alcohol abuse treatment was entered on the docket.

13 (3) A petition for expungement based on a nolle prosequi with the  
14 requirement of drug or alcohol treatment may not be filed until the completion of the  
15 required treatment.

16 (4) A petition for expungement based on a full and unconditional  
17 pardon by the Governor may not be filed later than 10 years after the pardon was  
18 signed by the Governor.

19 (5) Except as provided in paragraph (2) of this subsection, a petition  
20 for expungement based on a stet or a compromise under § 3-207 of the Criminal Law  
21 Article may not be filed within 3 years after the stet or compromise.

22 (6) A petition for expungement based on the conviction of a crime  
23 under subsection (a)(9) of this section may not be filed within 3 years after the  
24 conviction or satisfactory completion of the sentence, including probation, that was  
25 imposed for the conviction, whichever is later.

26 (7) A petition for expungement based on a finding of not criminally  
27 responsible under subsection (a)(9) or (10) of this section may not be filed within 3  
28 years after the finding of not criminally responsible was made by the court.

29 **(8) A PETITION FOR EXPUNGEMENT BASED ON THE CONVICTION**  
30 **OF A CRIME UNDER SUBSECTION (A)(11) OF THIS SECTION MAY NOT BE FILED**  
31 **WITHIN 10 YEARS AFTER THE CONVICTION OR SATISFACTORY COMPLETION OF**  
32 **THE SENTENCE, INCLUDING PROBATION, THAT WAS IMPOSED FOR THE**  
33 **CONVICTION, WHICHEVER IS LATER.**

34 **[(8) (9)** A court may grant a petition for expungement at any time  
35 on a showing of good cause.

1           (d)   (1)   The court shall have a copy of a petition for expungement served  
2 on the State's Attorney.

3                   (2)   Unless the State's Attorney files an objection to the petition for  
4 expungement within 30 days after the petition is served, the court shall pass an order  
5 requiring the expungement of all police records and court records about the charge.

6           (e)   (1)   If the State's Attorney files a timely objection to the petition, the  
7 court shall hold a hearing.

8                   (2)   If the court at the hearing finds that the person is entitled to  
9 expungement, the court shall order the expungement of all police records and court  
10 records about the charge.

11                  (3)   If the court finds that the person is not entitled to expungement,  
12 the court shall deny the petition.

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

14                          (i)   the petition is based on the entry of probation before  
15 judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of  
16 drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse  
17 treatment, a conviction for a crime [specified in subsection (a)(9) of this section], a  
18 finding of not criminally responsible, or the grant of a pardon by the Governor; and

19                          (ii)   the person:

20                                   1.   since the full and unconditional pardon, entry, finding  
21 of not criminally responsible, or conviction has been convicted of a crime other than a  
22 minor traffic violation; or

23                                   2.   is a defendant in a pending criminal proceeding.

24           (f)   Unless an order is stayed pending an appeal, within 60 days after entry  
25 of the order, every custodian of the police records and court records that are subject to  
26 the order of expungement shall advise in writing the court and the person who is  
27 seeking expungement of compliance with the order.

28           (g)   (1)   The State's Attorney is a party to the proceeding.

29                   (2)   A party aggrieved by the decision of the court is entitled to  
30 appellate review as provided in the Courts Article.

31                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2014.