

HOUSE BILL 1166

E2
HB 1006/13 – JUD

4lr2845
CF SB 804

By: **Delegates Anderson, Waldstreicher, Branch, Cardin, Carter, Clippinger, Conaway, Glenn, Gutierrez, Harper, Haynes, Holmes, Ivey, Luedtke, McIntosh, Mizeur, Oaks, Reznik, B. Robinson, Rosenberg, Simmons, Stukes, Swain, Tarrant, F. Turner, Valderrama, A. Washington, and Wilson**

Introduced and read first time: February 7, 2014
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Second Chance Act of 2014**

3 FOR the purpose of authorizing a person to petition the court to shield certain court
4 records and police records relating to a certain conviction at a certain time;
5 providing that, if a certain person is convicted of a new crime during a certain
6 time period, a certain original conviction is not eligible for shielding unless the
7 new conviction becomes eligible for shielding; providing that a certain person is
8 not entitled to shielding if the person is a defendant in a pending criminal
9 proceeding; providing that a certain conviction is eligible for shielding at a
10 certain time; requiring the court have a copy of a certain petition served on the
11 State's Attorney; requiring the court to hold a hearing and order the shielding of
12 certain records under certain circumstances; requiring the court to deny a
13 certain petition under certain circumstances; prohibiting the Maryland
14 Judiciary Case Search from in any way referring to the existence of specific
15 records shielded in accordance with this Act; providing that a conviction that
16 has been shielded in accordance with this Act may not be considered a
17 conviction for certain purposes; prohibiting a person authorized to access a
18 shielded record under this Act from disclosing any information from a shielded
19 record to a person who is not authorized to access shielded records under this
20 Act; prohibiting an employer from requiring a person who applies for
21 employment to disclose certain shielded information at a certain time or
22 discharging or refusing to hire a person solely because the person refused to
23 disclose certain information, with a certain exception; prohibiting an
24 educational institution from requiring a person who applies for admission to the
25 institution to disclose certain shielded information at a certain time or expelling
26 or refusing to admit a person solely because the person refused to disclose
27 certain information; prohibiting a unit, an official, or an employee of the State

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or a political subdivision of the State from requiring a person who applies for a
 2 license, permit, registration, or government service to disclose certain shielded
 3 information at a certain time or denying a person's application for a license,
 4 permit, registration, or government service solely because the person refused to
 5 disclose certain information; requiring a certain custodian to deny inspection of
 6 criminal records and police records relating to the conviction of a crime that has
 7 been shielded under this Act; providing that this Act does not apply to a certain
 8 conviction; providing that a shielded record shall remain fully accessible by
 9 certain persons; establishing penalties for a violation of this Act; defining
 10 certain terms; and generally relating to the shielding of court records and police
 11 records.

12 BY adding to
 13 Article – Criminal Procedure
 14 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3.
 15 Shielding”
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume and 2013 Supplement)

18 BY adding to
 19 Article – State Government
 20 Section 10–616(w)
 21 Annotated Code of Maryland
 22 (2009 Replacement Volume and 2013 Supplement)

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**

26 **SUBTITLE 3. SHIELDING.**

27 **10–301.**

28 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 29 **INDICATED.**

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

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

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

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

3 **(F) “SHIELDABLE CONVICTION” MEANS A CONVICTION OF ONE OF THE**
4 **FOLLOWING CRIMES:**

5 **(1) DISORDERLY CONDUCT UNDER § 10-201 OF THE CRIMINAL**
6 **LAW ARTICLE;**

7 **(2) DISTURBING THE PEACE UNDER § 10-201(C)(4) OF THE**
8 **CRIMINAL LAW ARTICLE;**

9 **(3) FAILURE TO OBEY A REASONABLE AND LAWFUL ORDER**
10 **UNDER § 10-201(C)(3) OF THE CRIMINAL LAW ARTICLE;**

11 **(4) MALICIOUS DESTRUCTION OF PROPERTY IN THE LESSER**
12 **DEGREE UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;**

13 **(5) TRESPASS ON POSTED PROPERTY UNDER § 6-402 OF THE**
14 **CRIMINAL LAW ARTICLE;**

15 **(6) MISDEMEANOR OBTAINING PROPERTY OR SERVICES BY BAD**
16 **CHECK UNDER § 8-103(B) AND § 8-106(C) OF THE CRIMINAL LAW ARTICLE;**

17 **(7) MISDEMEANOR THEFT OF PROPERTY OR SERVICES UNDER §**
18 **7-104(G)(2) OR (3) OF THE CRIMINAL LAW ARTICLE;**

19 **(8) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS**
20 **SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;**

21 **(9) POSSESSING OR ADMINISTERING A NONCONTROLLED**
22 **SUBSTANCE UNDER § 5-618(A) OF THE CRIMINAL LAW ARTICLE;**

23 **(10) USE OF OR POSSESSION WITH INTENT TO USE DRUG**
24 **PARAPHERNALIA UNDER § 5-619(C)(1) OF THE CRIMINAL LAW ARTICLE;**

25 **(11) DRIVING WITHOUT A LICENSE UNDER § 16-101 OF THE**
26 **TRANSPORTATION ARTICLE;**

27 **(12) DRIVING WHILE PRIVILEGE IS CANCELED, SUSPENDED,**
28 **REFUSED, OR REVOKED UNDER § 16-303(A), (B), (C), (D), (E), (F), OR (G) OF THE**
29 **TRANSPORTATION ARTICLE;**

1 **(13) DRIVING WHILE UNINSURED UNDER § 17-107 OF THE**
2 **TRANSPORTATION ARTICLE; OR**

3 **(14) A PROSTITUTION OFFENSE UNDER § 11-306(A)(1) OF THE**
4 **CRIMINAL LAW ARTICLE IF THE CONVICTION IS FOR PROSTITUTION AND NOT**
5 **ASSIGNATION.**

6 **10-302.**

7 **(A) THIS SUBTITLE DOES NOT APPLY TO A CONVICTION OF A**
8 **DOMESTICALLY RELATED CRIME UNDER § 6-233 OF THIS ARTICLE.**

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

10 **(1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL**
11 **JUSTICE PURPOSES;**

12 **(2) PROSPECTIVE EMPLOYERS WHO ARE SUBJECT TO A**
13 **STATUTORY OR CONTRACTUAL REQUIREMENT TO INQUIRE INTO AN**
14 **APPLICANT'S CRIMINAL BACKGROUND FOR PURPOSES OF CARRYING OUT THAT**
15 **REQUIREMENT;**

16 **(3) FACILITIES THAT ARE AUTHORIZED TO INQUIRE INTO AN**
17 **INDIVIDUAL'S CRIMINAL BACKGROUND UNDER § 5-561(B), (C), (D), (E), (F), OR**
18 **(G) OF THE FAMILY LAW ARTICLE;**

19 **(4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD**
20 **AND THAT PERSON'S ATTORNEY; AND**

21 **(5) HEALTH OCCUPATIONS BOARDS.**

22 **10-303.**

23 **(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS**
24 **SECTION, A PERSON MAY PETITION THE COURT TO SHIELD THE PERSON'S**
25 **COURT AND POLICE RECORDS RELATING TO A SHIELDABLE CONVICTION NO**
26 **EARLIER THAN 3 YEARS AFTER THE PERSON SATISFIES THE SENTENCE IMPOSED**
27 **FOR THE CONVICTION, INCLUDING PAROLE, PROBATION, OR MANDATORY**
28 **SUPERVISION.**

29 **(B) A CONVICTION FOR THEFT OF PROPERTY OR SERVICES WITH A**
30 **VALUE OF LESS THAN \$1,000 UNDER § 7-104(G)(2) OF THE CRIMINAL LAW**
31 **ARTICLE IS ELIGIBLE FOR SHIELDING NO EARLIER THAN 5 YEARS AFTER THE**

1 PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING
2 PAROLE, PROBATION, OR MANDATORY SUPERVISION.

3 (C) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE
4 APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OR (B) OF THIS
5 SECTION, THE ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS
6 THE NEW CONVICTION BECOMES ELIGIBLE FOR SHIELDING.

7 (2) A PERSON IS NOT ENTITLED TO SHIELDING IF THE PERSON IS
8 A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

9 (D) IF A PERSON IS NOT ENTITLED TO SHIELDING OF ONE CONVICTION
10 IN A UNIT, THE PERSON IS NOT ENTITLED TO SHIELDING OF ANY OTHER
11 CONVICTION IN THE UNIT.

12 (E) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR
13 SHIELDING SERVED ON THE STATE'S ATTORNEY.

14 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO
15 THE PETITION FOR SHIELDING WITHIN 30 DAYS AFTER THE PETITION IS
16 SERVED, THE COURT SHALL ORDER THE SHIELDING OF ALL POLICE RECORDS
17 AND COURT RECORDS RELATING TO THE CONVICTION.

18 (F) (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO
19 THE PETITION, THE COURT SHALL HOLD A HEARING.

20 (2) IF THE COURT, AT THE HEARING, FINDS THAT THE PERSON IS
21 ENTITLED TO SHIELDING, THE COURT SHALL ORDER THE SHIELDING OF ALL
22 POLICE RECORDS AND COURT RECORDS RELATING TO THE CONVICTION.

23 **10-304.**

24 THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER
25 TO THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH
26 THIS SUBTITLE.

27 **10-305.**

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

31 **10-306.**

1 **(A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §**
2 **10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A**
3 **SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS**
4 **SHIELDED RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.**

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

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

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

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

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

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

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

22 **(I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,**
23 **PERMIT, REGISTRATION, OR GOVERNMENT SERVICE TO DISCLOSE SHIELDED**
24 **INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN INTERVIEW,**
25 **OR OTHERWISE; OR**

26 **(II) DENY A PERSON'S APPLICATION FOR A LICENSE,**
27 **PERMIT, REGISTRATION, OR GOVERNMENT SERVICE SOLELY BECAUSE THE**
28 **PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL CHARGES**
29 **THAT HAVE BEEN SHIELDED.**

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

