

SENATE BILL 375

E2
HB 1006/13 – JUD

4lr0917

By: **Senators Currie, McFadden, Forehand, Gladden, and Muse**

Introduced and read first time: January 22, 2014

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 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 person may
8 shield only one stand-alone conviction or unit of convictions per lifetime;
9 requiring the Court of Appeals, by rule, to establish procedures relating to the
10 filing of a certain request for shielding; prohibiting the Maryland Judiciary Case
11 Search from in any way referring to the existence of specific records shielded in
12 accordance with this Act; providing that a conviction that has been shielded in
13 accordance with this Act may not be considered a conviction for certain
14 purposes; prohibiting a person authorized to access a shielded record under this
15 Act from disclosing any information from a shielded record to a person who is
16 not authorized to access shielded records under this Act; prohibiting an
17 educational institution from requiring a person who applies for admission to the
18 institution to disclose certain shielded information at a certain time or expelling
19 or refusing to admit a person solely because the person refused to disclose
20 certain information; prohibiting a unit, an official, or an employee of the State
21 or a political subdivision of the State from requiring a person who applies for a
22 license, permit, registration, or governmental service to disclose certain shielded
23 information at a certain time or denying a person's application for a license,
24 permit, registration, or governmental service solely because the person refused
25 to disclose certain information; requiring a certain custodian to deny inspection
26 of criminal records and police records relating to the conviction of a crime that
27 has been shielded under this Act; providing that this Act does not apply to a
28 certain conviction; providing that a shielded record shall remain fully accessible
29 by certain persons; defining certain terms; and generally relating to the
30 shielding of court records and police records.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Criminal Procedure
3 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3.
4 Shielding”
5 Annotated Code of Maryland
6 (2008 Replacement Volume and 2013 Supplement)

7 BY adding to
8 Article – State Government
9 Section 10–616(w)
10 Annotated Code of Maryland
11 (2009 Replacement Volume and 2013 Supplement)

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

14 **Article – Criminal Procedure**

15 **SUBTITLE 3. SHIELDING.**

16 **10–301.**

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

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

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

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

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

27 (F) “SHIELDABLE CONVICTION” MEANS A CONVICTION OF ONE OF THE
28 FOLLOWING CRIMES, COMMITTED BY AN INDIVIDUAL UNDER THE AGE OF 26
29 YEARS:

30 (1) POSSESSION OF MARIJUANA UNDER § 5–601 OF THE
31 CRIMINAL LAW ARTICLE;

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

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

5 **(4) THEFT UNDER \$100 UNDER § 7-104(G)(3) OF THE CRIMINAL**
6 **LAW ARTICLE;**

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

9 **(6) MALICIOUS DESTRUCTION OF PROPERTY CAUSING DAMAGE**
10 **OF LESS THAN \$500 UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;**

11 **(7) FAILURE TO APPEAR IN RESPONSE TO A CITATION UNDER §**
12 **5-212 OF THIS ARTICLE;**

13 **(8) PUBLIC INTOXICATION UNDER ARTICLE 2B, § 19-101 OF THE**
14 **CODE;**

15 **(9) HARASSMENT UNDER § 3-803 OF THE CRIMINAL LAW**
16 **ARTICLE;**

17 **(10) LITTERING IN AN AMOUNT NOT EXCEEDING 100 POUNDS**
18 **UNDER § 10-110 OF THE CRIMINAL LAW ARTICLE;**

19 **(11) POSSESSION OF AN ALCOHOLIC BEVERAGE IN AN OPEN**
20 **CONTAINER UNDER ARTICLE 2B, § 19-301 OF THE CODE;**

21 **(12) DRINKING ON PUBLIC PROPERTY UNDER ARTICLE 2B, §**
22 **19-202 OF THE CODE;**

23 **(13) CONFINEMENT OF AN UNATTENDED CHILD UNDER § 5-801 OF**
24 **THE FAMILY LAW ARTICLE;**

25 **(14) OBTAINING PROPERTY OR SERVICES WITH A VALUE OF LESS**
26 **THAN \$100 BY BAD CHECK UNDER § 8-103(B) OF THE CRIMINAL LAW ARTICLE;**

27 **(15) OBTAINING PROPERTY WITH A VALUE OF LESS THAN \$100**
28 **WITH A STOLEN OR COUNTERFEIT CREDIT CARD UNDER § 8-206(A) OF THE**
29 **CRIMINAL LAW ARTICLE;**

1 **(16) FAILING TO SEND A CHILD TO SCHOOL UNDER § 7-301(E)(2)**
2 **OF THE EDUCATION ARTICLE; OR**

3 **(17) FAILURE TO COMPLY WITH A LAWFUL ORDER OF A NATURAL**
4 **RESOURCES POLICE OFFICER UNDER § 1-206 OF THE NATURAL RESOURCES**
5 **ARTICLE.**

6 **(G) “UNIT” MEANS TWO OR MORE CONVICTIONS THAT ARISE FROM THE**
7 **SAME INCIDENT, TRANSACTION, OR SET OF FACTS.**

8 **10-302.**

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

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

12 **(1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL**
13 **JUSTICE PURPOSES;**

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

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

21 **(4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD**
22 **AND THAT PERSON’S ATTORNEY; AND**

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

24 **10-303.**

25 **(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS**
26 **SECTION, A PERSON MAY PETITION THE COURT TO SHIELD THE PERSON’S**
27 **COURT AND POLICE RECORDS RELATING TO A SHIELDABLE CONVICTION NO**
28 **EARLIER THAN 5 YEARS AFTER THE PERSON SATISFIES THE SENTENCE IMPOSED**
29 **FOR THE CONVICTION, INCLUDING PAROLE, PROBATION, OR MANDATORY**
30 **SUPERVISION.**

1 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A**
2 **PERSON MAY PETITION THE COURT TO SHIELD THE PERSON'S COURT AND**
3 **POLICE RECORDS RELATING TO A SHIELDABLE CONVICTION UNDER §**
4 **10-301(F)(4), (6), OR (9) OF THIS SUBTITLE NO EARLIER THAN 10 YEARS AFTER**
5 **THE PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION,**
6 **INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.**

7 **(C) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE**
8 **APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OR (B) OF THIS**
9 **SECTION, THE ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS**
10 **THE NEW CONVICTION BECOMES ELIGIBLE FOR SHIELDING.**

11 **(D) (1) A PERSON MAY SHIELD ONLY ONE STAND-ALONE CONVICTION**
12 **OR ONE UNIT OF CONVICTIONS PER LIFETIME.**

13 **(2) IF A PERSON IS NOT ENTITLED TO SHIELDING OF ONE**
14 **CONVICTION IN A UNIT, THE PERSON IS NOT ENTITLED TO SHIELDING OF ANY**
15 **OTHER CONVICTION IN THE UNIT.**

16 **(E) THE COURT OF APPEALS, BY RULE, SHALL ESTABLISH**
17 **PROCEDURES RELATING TO THE FILING OF A REQUEST FOR SHIELDING IN**
18 **ACCORDANCE WITH THIS SUBTITLE.**

19 **10-304.**

20 **THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER**
21 **TO THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH**
22 **THIS SUBTITLE.**

23 **10-305.**

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

27 **10-306.**

28 **(A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §**
29 **10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A**
30 **SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS**
31 **SHIELDED RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.**

32 **(B) (1) AN EDUCATIONAL INSTITUTION MAY NOT:**

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

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

7 **(2) EXCEPT AS PROVIDED IN § 10-302(B) OF THIS SUBTITLE, A**
8 **UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A POLITICAL**
9 **SUBDIVISION OF THE STATE MAY NOT:**

10 **(I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,**
11 **PERMIT, REGISTRATION, OR GOVERNMENTAL SERVICE TO DISCLOSE SHIELDED**
12 **INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN INTERVIEW,**
13 **OR OTHERWISE; OR**

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

18 **Article – State Government**

19 10-616.

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

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