

SENATE BILL 68

E3
SB 229/13 – JPR

(PRE-FILED)

4r0888
CF 4r0886

By: **Chair, Judicial Proceedings Committee (By Request – Maryland Judicial Conference)**

Requested: November 12, 2013
Introduced and read first time: January 8, 2014
Assigned to: Judicial Proceedings

A BILL ENTITLED

AN ACT concerning

Courts – Juveniles – Expungement of Records

FOR the purpose of authorizing a person to file a certain petition for expungement of certain juvenile records; requiring the court to serve a certain petition on a certain State's Attorney; authorizing the court to order the expungement of a certain record under certain circumstances; requiring the court to consider certain criteria in its consideration of a certain petition for expungement of records; authorizing and requiring the court to deny a certain petition for expungement under certain circumstances; requiring the court to order the expungement of certain records under certain circumstances; authorizing the court to hold a certain hearing under certain circumstances; requiring the custodian of certain records to advise in writing certain persons regarding compliance with a certain court order requiring expungement under certain circumstances; authorizing the filing of an appeal by certain persons under certain circumstances; providing that this Act does not apply to certain records; defining certain terms; and generally relating to juveniles and expungement of records.

BY adding to
Article – Courts and Judicial Proceedings
Section 3–8A–27.1
Annotated Code of Maryland
(2013 Replacement Volume and 2013 Supplement)

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

Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



3-8A-27.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “EXPUNGEMENT” MEANS THE PHYSICAL DESTRUCTION OF A RECORD AND OBLITERATION OF A PERSON’S NAME FROM ANY OTHER OFFICIAL INDEX OR PUBLIC RECORD OR BOTH.

(3) “JUVENILE DELINQUENCY RECORD” INCLUDES A COURT RECORD, POLICE RECORD, AND STATE’S ATTORNEY’S RECORD.

(B) (1) A PERSON MAY FILE A PETITION FOR EXPUNGEMENT OF THE PERSON’S JUVENILE DELINQUENCY RECORD IN THE COURT IN WHICH THE DELINQUENCY PETITION WAS FILED.

(2) THE COURT SHALL HAVE A COPY OF THE PETITION FOR EXPUNGEMENT SERVED ON THE STATE’S ATTORNEY.

(C) THE COURT MAY ORDER A JUVENILE DELINQUENCY RECORD EXPUNGED IF:

(1) THE PERSON HAS ATTAINED THE AGE OF 18 YEARS AND AT LEAST 2 YEARS HAVE ELAPSED SINCE THE LAST OFFICIAL ACTION IN THE PERSON’S JUVENILE DELINQUENCY RECORD;

(2) THE PERSON HAS BEEN ADJUDICATED DELINQUENT NOT MORE THAN ONCE;

(3) THE PERSON HAS NOT SUBSEQUENTLY BEEN CONVICTED OF ANY OFFENSE;

(4) NO DELINQUENCY PETITION OR CRIMINAL CHARGE IS PENDING AGAINST THE PERSON;

(5) THE PERSON HAS NOT BEEN ADJUDICATED DELINQUENT FOR AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE;

(6) THE PERSON WAS NOT REQUIRED TO REGISTER AS A SEX OFFENDER UNDER § 11-704(C) OF THE CRIMINAL PROCEDURE ARTICLE; AND

(7) THE PERSON HAS FULLY PAID ANY MONETARY RESTITUTION ORDERED BY THE COURT IN THE DELINQUENCY PROCEEDING.

(D) THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE PERSON, THE PERSON'S STABILITY IN THE COMMUNITY, AND THE SAFETY OF THE PUBLIC IN ITS CONSIDERATION OF THE PETITION FOR EXPUNGEMENT.

(E) (1) IF NO OBJECTION IS FILED, THE COURT MAY GRANT THE PETITION WITHOUT A HEARING.

(2) IF THE COURT FINDS THAT A PETITION FAILS ON ITS FACE TO MEET THE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, THE COURT MAY DENY THE PETITION WITHOUT A HEARING.

(3) (I) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE STATE'S ATTORNEY FILES AN OBJECTION TO THE PETITION WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE COURT SHALL HOLD A HEARING.

(II) THE COURT MAY HOLD A HEARING ON ITS OWN INITIATIVE.

(III) IF, AFTER A HEARING, THE COURT FINDS THAT THE PERSON IS ENTITLED TO EXPUNGEMENT, THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL COURT RECORDS, POLICE RECORDS, AND STATE'S ATTORNEY'S RECORDS RELATING TO THE DELINQUENCY PROCEEDINGS.

(IV) IF, AFTER A HEARING, THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO EXPUNGEMENT, THE COURT SHALL DENY THE PETITION.

(F) THE PERSON WHO FILED THE PETITION FOR EXPUNGEMENT OR THE STATE'S ATTORNEY MAY APPEAL AN ORDER GRANTING OR DENYING THE PETITION.

(G) UNLESS AN ORDER IS STAYED PENDING AN APPEAL, EACH CUSTODIAN OF POLICE AND COURT RECORDS SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE, IN WRITING, THE COURT, THE PETITIONER, AND ALL PARTIES TO THE PETITION FOR EXPUNGEMENT PROCEEDING OF COMPLIANCE WITH THE ORDER WITHIN 60 DAYS AFTER ENTRY OF THE ORDER.

(H) THIS SECTION DOES NOT APPLY TO RECORDS MAINTAINED UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.

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