

SENATE BILL 526

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5lr1288
CF HB 244

By: **Senators Raskin, Hough, Conway, Benson, Feldman, Ferguson, Gladden, Guzzone, Kasemeyer, King, Lee, Madaleno, Manno, McFadden, Middleton, Montgomery, Muse, Nathan-Pulliam, Peters, Pinsky, Pugh, Ramirez, Ready, Salling, and Young**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Second Chance Act of 2015**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

14 BY adding to

15 Article – Criminal Procedure

16 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3. Shielding”

17 Annotated Code of Maryland

18 (2008 Replacement Volume and 2014 Supplement)

19 BY adding to

20 Article – General Provisions

21 Section 4–327

22 Annotated Code of Maryland

23 (2014 Volume)

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

26 **Article – Criminal Procedure**

27 **SUBTITLE 3. SHIELDING.**

28 **10–301.**

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

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

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

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

1 **(E) “SHIELD” MEANS TO RENDER A COURT RECORD AND POLICE RECORD**
2 **RELATING TO A CONVICTION OF A CRIME INACCESSIBLE BY MEMBERS OF THE**
3 **PUBLIC.**

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

6 **(1) DISORDERLY CONDUCT UNDER § 10–201(C)(2) OF THE CRIMINAL**
7 **LAW ARTICLE;**

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

10 **(3) FAILURE TO OBEY A REASONABLE AND LAWFUL ORDER UNDER §**
11 **10–201(C)(3) OF THE CRIMINAL LAW ARTICLE;**

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

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

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

18 **(7) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS**
19 **SUBSTANCE UNDER § 5–601 OF THE CRIMINAL LAW ARTICLE;**

20 **(8) POSSESSING OR ADMINISTERING A NONCONTROLLED SUBSTANCE**
21 **UNDER § 5–618(A) OF THE CRIMINAL LAW ARTICLE;**

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

24 **(10) DRIVING WITHOUT A LICENSE UNDER § 16–101 OF THE**
25 **TRANSPORTATION ARTICLE;**

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

29 **(12) DRIVING WHILE UNINSURED UNDER § 17–107 OF THE**
30 **TRANSPORTATION ARTICLE; OR**

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

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

6 **10-302.**

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

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

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

12 **(2) PROSPECTIVE OR CURRENT EMPLOYERS WHO ARE SUBJECT TO A**
13 **STATUTORY OR CONTRACTUAL REQUIREMENT TO INQUIRE INTO THE CRIMINAL**
14 **BACKGROUND OF AN APPLICANT OR EMPLOYEE FOR PURPOSES OF CARRYING OUT**
15 **THAT 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 (G)**
18 **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 SUBSECTION (B) OF THIS SECTION, A PERSON**
24 **MAY PETITION THE COURT TO SHIELD THE PERSON’S COURT AND POLICE RECORDS**
25 **RELATING TO ALL SHIELDABLE CONVICTIONS NO EARLIER THAN 3 YEARS AFTER**
26 **THE PERSON SATISFIES THE SENTENCE IMPOSED FOR ALL CONVICTIONS,**
27 **INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.**

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

1 THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING PAROLE, PROBATION,
2 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) OF THIS SECTION, THE
5 ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS THE NEW
6 CONVICTION BECOMES ELIGIBLE FOR SHIELDING.

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

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

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

14 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO THE
15 PETITION FOR SHIELDING WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE
16 COURT MAY ORDER THE SHIELDING OF ALL POLICE RECORDS AND COURT RECORDS
17 RELATING TO THE CONVICTION AFTER TAKING INTO CONSIDERATION ANY
18 OBJECTIONS OR ADDITIONAL INFORMATION PROVIDED BY THE STATE'S ATTORNEY
19 OR THE VICTIM.

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

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

25 (3) THE COURT MAY DENY A PETITION UNDER THIS SUBSECTION FOR
26 GOOD CAUSE.

27 (4) A COURT MAY GRANT ONLY ONE SHIELDING PETITION TO A
28 PERSON OVER THE LIFETIME OF THE PERSON.

29 (G) THE COURT SHALL SEND WRITTEN NOTICE OF THE PROPOSED ACTION
30 TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS SEEKING
31 SHIELDING AT THE ADDRESS LISTED IN THE COURT FILE ADVISING THE VICTIM OR
32 VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION RELEVANT TO THE
33 SHIELDING PETITION TO THE COURT.

1 **10-304.**

2 **THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER TO**
3 **THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH THIS**
4 **SUBTITLE.**

5 **10-305.**

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

8 **10-306.**

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

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

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

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

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

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

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

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

1 **(I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,**
2 **CERTIFICATE, PERMIT, REGISTRATION, OR GOVERNMENT SERVICE TO DISCLOSE**
3 **SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN**
4 **INTERVIEW, OR OTHERWISE; OR**

5 **(II) DENY A PERSON'S APPLICATION FOR A LICENSE,**
6 **CERTIFICATE, PERMIT, REGISTRATION, OR GOVERNMENT SERVICE SOLELY**
7 **BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL**
8 **CHARGES THAT HAVE BEEN SHIELDED.**

9 **(C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO, FOR EACH**
10 **VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,000.**

11 **Article – General Provisions**

12 **4-327.**

13 **A CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS AND POLICE**
14 **RECORDS RELATING TO THE CONVICTION OF A CRIME THAT HAVE BEEN SHIELDED**
15 **UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE.**

16 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
17 **October 1, 2015.**