

SENATE BILL 215

E2

6lr0319

By: **Senators Norman, Hough, Klausmeier, Muse, Ramirez, Ready, and Salling**

Introduced and read first time: January 21, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Nolle Prosequi**

3 FOR the purpose of ~~repealing the prohibition on the filing of a petition for expungement~~
4 ~~based on a nolle prosequi within a certain time period after the disposition unless~~
5 ~~the petitioner files with the petition a certain waiver and release~~ altering the
6 circumstances under which a petition for expungement based on a nolle prosequi
7 may be filed; requiring a certain expungement to occur in a certain manner unless a
8 petitioner files a certain waiver and release; and generally relating to expungement
9 of criminal records.

10 BY repealing and reenacting, without amendments,

11 Article – Criminal Procedure

12 Section 10–101(e)

13 Annotated Code of Maryland

14 (2008 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Criminal Procedure

17 Section 10–105(c)(1)

18 Annotated Code of Maryland

19 (2008 Replacement Volume and 2015 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

21 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Criminal Procedure

10–101.

(e) “Expungement” with respect to a court record or a police record means removal from public inspection:

(1) by obliteration;

(2) by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or

(3) if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of it or the part of it that provides access.

10–105.

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

(II) 1. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A PETITION FOR EXPUNGEMENT BASED ON A NOLLE PROSEQUI MAY BE FILED AT ANY TIME AFTER THE DISPOSITION.

2. UNLESS A PETITIONER UNDER THIS SUBPARAGRAPH FILES WITH THE PETITION FOR EXPUNGEMENT A WRITTEN GENERAL WAIVER AND RELEASE OF ALL THE PETITIONER’S TORT CLAIMS ARISING FROM THE CHARGE, THE EXPUNGEMENT MAY OCCUR ONLY IN ACCORDANCE WITH § 10–101(E)(2) OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.