

HOUSE BILL 48

E2

7lr0860

(PRE-FILED)

By: **Delegate Conaway**

Requested: October 13, 2016

Introduced and read first time: January 11, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Shielding – Nolle Prosequi**

3 FOR the purpose of requiring the District Court of Maryland to shield certain records from
4 public access within a certain period of time following an entry of nolle prosequi by
5 the State in a criminal court proceeding under certain circumstances; authorizing
6 the State's Attorney to object to the shielding of certain records by filing an objection
7 within a certain time period; requiring the court to schedule a certain hearing under
8 certain circumstances; requiring the court to hear certain arguments and take
9 certain testimony during a certain hearing; requiring the court to order that certain
10 records remain unshielded if the court finds that the State's Attorney has made a
11 certain showing; requiring the court to enter an order shielding certain records if the
12 court finds that the State's Attorney has not made a certain showing; requiring the
13 court to send certain notice to certain victims at a certain time; and generally
14 relating to shielding of police and court records.

15 BY adding to
16 Article – Criminal Procedure
17 Section 10–303.1
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2016 Supplement)

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

22 **Article – Criminal Procedure**

23 **10–303.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, 60 DAYS AFTER THE STATE ENTERS A NOLLE PROSEQUI AS TO A CHARGE IN A CRIMINAL CASE WITHIN THE JURISDICTION OF THE DISTRICT COURT, THE COURT SHALL, ON ITS OWN MOTION, ORDER THE SHIELDING OF ALL POLICE RECORDS AND COURT RECORDS RELATING TO THE CHARGE.

(B) (1) THE STATE'S ATTORNEY MAY OBJECT TO THE SHIELDING OF A DEFENDANT'S RECORDS UNDER THIS SECTION BY FILING AN OBJECTION WITHIN 30 DAYS AFTER THE ENTRY OF NOLLE PROSEQUI.

(2) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO THE SHIELDING OF A DEFENDANT'S RECORDS UNDER THIS SECTION, THE COURT SHALL SCHEDULE A HEARING TO BE HELD WITHIN 45 DAYS AFTER THE OBJECTION.

(3) DURING A HEARING HELD UNDER THIS SUBSECTION, THE COURT SHALL HEAR ARGUMENTS IN SUPPORT OF AND, IF PRESENTED, OPPOSITION TO THE OBJECTION TO SHIELDING, AND THE COURT MAY TAKE TESTIMONY FROM ANY INDIVIDUAL THAT THE COURT CONSIDERS USEFUL IN REACHING ITS DECISION.

(4) IF THE COURT FINDS THAT THE STATE'S ATTORNEY HAS DEMONSTRATED THAT SHIELDING THE DEFENDANT'S RECORDS WOULD PRESENT A REAL AND SUBSTANTIAL RISK OF HARM TO THE PUBLIC OR AN INDIVIDUAL, THE COURT SHALL ORDER THAT THE DEFENDANT'S RECORDS REMAIN UNSHIELDED.

(5) THE COURT SHALL ENTER AN ORDER SHIELDING THE POLICE AND COURT RECORDS RELATING TO THE CHARGE FOR WHICH THE STATE'S ATTORNEY ENTERED NOLLE PROSEQUI IF THE COURT FINDS THAT THE STATE'S ATTORNEY HAS NOT MADE THE SHOWING REQUIRED UNDER PARAGRAPH (4) OF THIS SUBSECTION.

(C) (1) THE COURT SHALL SEND WRITTEN NOTICE WITHIN 30 DAYS AFTER THE ENTRY OF A NOLLE PROSEQUI TO ALL LISTED VICTIMS IN THE CASE AT THE ADDRESS LISTED IN THE COURT FILE NOTIFYING THEM THAT THE DEFENDANT'S POLICE RECORDS AND COURT RECORDS RELATING TO THE CHARGE FOR WHICH THE STATE ENTERED A NOLLE PROSEQUI WILL BE SHIELDED UNDER THIS SECTION.

(2) WHEN THE STATE HAS FILED A TIMELY OBJECTION UNDER SUBSECTION (B)(1) OF THIS SECTION, THE COURT SHALL ALSO ADVISE THE VICTIM OR VICTIMS PRIOR TO THE HEARING DATE OF THE RIGHT TO OFFER ADDITIONAL INFORMATION RELEVANT TO THE SHIELDING OF THE DEFENDANT'S RECORDS DURING THE HEARING DESCRIBED IN SUBSECTION (B) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.