

# HOUSE BILL 1269

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CF SB 201

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By: **Delegate W. Fisher**

Introduced and read first time: February 8, 2021

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Records – Waiting Period**

3 FOR the purpose of altering the amount of time that a person must wait before seeking  
4 expungement of certain records under certain circumstances; and generally relating  
5 to expungement of records.

6 BY repealing and reenacting, without amendments,

7 Article – Criminal Procedure

8 Section 10–105(a)

9 Annotated Code of Maryland

10 (2018 Replacement Volume and 2020 Supplement)

11 BY repealing and reenacting, with amendments,

12 Article – Criminal Procedure

13 Section 10–105(c)

14 Annotated Code of Maryland

15 (2018 Replacement Volume and 2020 Supplement)

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

18 **Article – Criminal Procedure**

19 10–105.

20 (a) A person who has been charged with the commission of a crime, including a  
21 violation of the Transportation Article for which a term of imprisonment may be imposed,  
22 or who has been charged with a civil offense or infraction, except a juvenile offense, may  
23 file a petition listing relevant facts for expungement of a police record, court record, or other  
24 record maintained by the State or a political subdivision of the State if:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) the person is acquitted;
- 2 (2) the charge is otherwise dismissed;
- 3 (3) a probation before judgment is entered, unless the person is charged  
4 with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211  
5 of the Criminal Law Article;
- 6 (4) a nolle prosequi or nolle prosequi with the requirement of drug or  
7 alcohol treatment is entered;
- 8 (5) the court indefinitely postpones trial of a criminal charge by marking  
9 the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment  
10 on the docket;
- 11 (6) the case is compromised under § 3–207 of the Criminal Law Article;
- 12 (7) the charge was transferred to the juvenile court under § 4–202 of this  
13 article;
- 14 (8) the person:
  - 15 (i) is convicted of only one criminal act, and that act is not a crime  
16 of violence; and
  - 17 (ii) is granted a full and unconditional pardon by the Governor;
- 18 (9) the person was convicted of a crime or found not criminally responsible  
19 under any State or local law that prohibits:
  - 20 (i) urination or defecation in a public place;
  - 21 (ii) panhandling or soliciting money;
  - 22 (iii) drinking an alcoholic beverage in a public place;
  - 23 (iv) obstructing the free passage of another in a public place or a  
24 public conveyance;
  - 25 (v) sleeping on or in park structures, such as benches or doorways;
  - 26 (vi) loitering;
  - 27 (vii) vagrancy;
  - 28 (viii) riding a transit vehicle without paying the applicable fare or

1 exhibiting proof of payment; or

2 (ix) except for carrying or possessing an explosive, acid, concealed  
3 weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation  
4 Article, any of the acts specified in § 7-705 of the Transportation Article;

5 (10) the person was found not criminally responsible under any State or  
6 local law that prohibits misdemeanor:

7 (i) trespass;

8 (ii) disturbing the peace; or

9 (iii) telephone misuse;

10 (11) except as provided in subsection (a-1) of this section, the person was  
11 convicted of a crime and the act on which the conviction was based is no longer a crime;

12 (12) the person was convicted of possession of marijuana under § 5-601 of  
13 the Criminal Law Article; or

14 (13) the person was convicted of a crime and the conviction was vacated  
15 under § 8-302 of this article.

16 (c) (1) Except as provided in paragraph (2) of this subsection, a petition for  
17 expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within  
18 [3 years] **18 MONTHS** after the disposition, unless the petitioner files with the petition a  
19 written general waiver and release of all the petitioner's tort claims arising from the charge.

20 (2) A petition for expungement based on a probation before judgment or a  
21 stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than  
22 the later of:

23 (i) the date the petitioner was discharged from probation or the  
24 requirements of obtaining drug or alcohol abuse treatment were completed; or

25 (ii) [3 years] **18 MONTHS** after the probation was granted or stet  
26 with the requirement of drug or alcohol abuse treatment was entered on the docket.

27 (3) A petition for expungement based on a nolle prosequi with the  
28 requirement of drug or alcohol treatment may not be filed until the completion of the  
29 required treatment.

30 (4) A petition for expungement based on a full and unconditional pardon  
31 by the Governor may not be filed later than 10 years after the pardon was signed by the  
32 Governor.

1           (5) Except as provided in paragraph (2) of this subsection, a petition for  
2 expungement based on a stet or a compromise under § 3–207 of the Criminal Law Article  
3 may not be filed within [~~3 years~~] **18 MONTHS** after the stet or compromise.

4           (6) A petition for expungement based on the conviction of a crime under  
5 subsection (a)(9) of this section may not be filed within [~~3 years~~] **18 MONTHS** after the  
6 conviction or satisfactory completion of the sentence, including probation, that was imposed  
7 for the conviction, whichever is later.

8           (7) A petition for expungement based on a finding of not criminally  
9 responsible under subsection (a)(9) or (10) of this section may not be filed within [~~3 years~~]  
10 **18 MONTHS** after the finding of not criminally responsible was made by the court.

11           (8) A petition for expungement based on the conviction of a crime under  
12 subsection (a)(12) of this section may not be filed within 4 years after the conviction or  
13 satisfactory completion of the sentence, including probation, that was imposed for the  
14 conviction, whichever is later.

15           (9) A court may grant a petition for expungement at any time on a showing  
16 of good cause.

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2021.