

SENATE BILL 114

E2
SB 687/20 – JPR

(PRE-FILED)

11r0547

By: **Senator McCray**

Requested: August 20, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2021

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Conviction and Subsequent Offender**
3 **Penalties – Driving While Privilege Is Canceled, Suspended, Refused, or**
4 **Revoked**

5 FOR the purpose of authorizing a person to file a certain petition for expungement if the
6 person is convicted of a certain misdemeanor involving driving while the person's
7 license or privilege to drive is canceled, suspended, refused, or revoked; providing
8 that a person is subject to a certain enhanced penalty for a subsequent conviction for
9 driving while the person's license or privilege to drive is canceled, suspended,
10 refused, or revoked only in a certain circumstance; making a technical correction;
11 and generally relating to ~~expungement~~ driving while privilege is canceled,
12 suspended, refused, or revoked.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 10–110
16 Annotated Code of Maryland
17 (2018 Replacement Volume and 2020 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Transportation
20 Section 16–303
21 Annotated Code of Maryland
22 (2020 Replacement Volume)

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.



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

3 **Article – Criminal Procedure**

4 10–110.

5 (a) A person may file a petition listing relevant facts for expungement of a police
6 record, court record, or other record maintained by the State or a political subdivision of
7 the State if the person is convicted of:

8 (1) a misdemeanor that is a violation of:

9 (i) § 6–320 of the Alcoholic Beverages Article;

10 (ii) an offense listed in § 17–613(a) of the Business Occupations and
11 Professions Article;

12 (iii) § 5–712, § 19–304, § 19–308, or Title 5, Subtitle 6 or Subtitle 9 of
13 the Business Regulation Article;

14 (iv) § 3–1508 or § 10–402 of the Courts Article;

15 (v) § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law
16 Article;

17 (vi) § 5–211 of this article;

18 (vii) § 3–203 or § 3–808 of the Criminal Law Article;

19 (viii) § 5–601 not involving the use or possession of marijuana, §
20 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law Article;

21 (ix) § 6–105, § 6–108, § 6–206, § 6–303, § 6–306, § 6–307, § 6–402, or
22 § 6–503 of the Criminal Law Article;

23 (x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the
24 Criminal Law Article;

25 (xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, §
26 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;

27 (xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;

28 (xiii) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the
29 Criminal Law Article;

1 (xiv) § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;

2 (xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, §
3 12–204, § 12–205, or § 12–302 of the Criminal Law Article;

4 (xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;

5 (xvii) § 4–509 of the Family Law Article;

6 (xviii) § 18–215 of the Health – General Article;

7 (xix) § 4–411 or § 4–2005 of the Housing and Community Development
8 Article;

9 (xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, §
10 27–407.1, or § 27–407.2 of the Insurance Article;

11 (xxi) § 8–725.4, § 8–725.5, § 8–725.6, § 8–725.7, § 8–726, § 8–726.1, §
12 8–727.1, or § 8–738.2 of the Natural Resources Article or any prohibited act related to speed
13 limits for personal watercraft;

14 (xxii) § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public
15 Safety Article;

16 (xxiii) § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;

17 (xxiv) § 9–124 of the State Government Article;

18 (xxv) § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the
19 Tax – General Article; [or]

20 (xxvi) **§ 16–303 OF THE TRANSPORTATION ARTICLE; OR**

21 **(XXVII)** the common law offenses of affray, rioting, criminal
22 contempt, battery, or hindering;

23 (2) a felony that is a violation of:

24 (i) § 7–104 of the Criminal Law Article;

25 (ii) the prohibition against possession with intent to distribute a
26 controlled dangerous substance under § 5–602(2) of the Criminal Law Article; or

27 (iii) § 6–202(a), § 6–203, or § 6–204 of the Criminal Law Article; or

1 (3) an attempt, a conspiracy, or a solicitation of any offense listed in item
2 (1) or (2) of this subsection.

3 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person
4 shall file a petition for expungement in the court in which the proceeding began.

5 (2) (i) Except as provided in subparagraph (ii) of this paragraph, if the
6 proceeding began in one court and was transferred to another court, the person shall file
7 the petition in the court to which the proceeding was transferred.

8 (ii) If the proceeding began in one court and was transferred to the
9 juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in
10 the court of original jurisdiction from which the order of transfer was entered.

11 (3) (i) If the proceeding in a court of original jurisdiction was appealed
12 to a court exercising appellate jurisdiction, the person shall file the petition in the appellate
13 court.

14 (ii) The appellate court may remand the matter to the court of
15 original jurisdiction.

16 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
17 petition for expungement under this section may not be filed earlier than 10 years after the
18 person satisfies the sentence or sentences imposed for all convictions for which
19 expungement is requested, including parole, probation, or mandatory supervision.

20 (2) A petition for expungement for a violation of § 3–203 of the Criminal
21 Law Article, common law battery, or for an offense classified as a domestically related crime
22 under § 6–233 of this article may not be filed earlier than 15 years after the person satisfies
23 the sentence or sentences imposed for all convictions for which expungement is requested,
24 including parole, probation, or mandatory supervision.

25 (3) A petition for expungement of a felony may not be filed earlier than 15
26 years after the person satisfies the sentence or sentences imposed for all convictions for
27 which expungement is requested, including parole, probation, or mandatory supervision.

28 (d) (1) If the person is convicted of a new crime during the applicable time
29 period set forth in subsection (c) of this section, the original conviction or convictions are
30 not eligible for expungement unless the new conviction becomes eligible for expungement.

31 (2) A person is not eligible for expungement if the person is a defendant in
32 a pending criminal proceeding.

33 (3) If a person is not eligible for expungement of one conviction in a unit,
34 the person is not eligible for expungement of any other conviction in the unit.

1 (e) (1) The court shall have a copy of a petition for expungement served on the
2 State's Attorney.

3 (2) The court shall send written notice of the expungement request to each
4 listed victim in the case in which the petitioner is seeking expungement at the address
5 listed in the court file, advising the victim of the right to offer additional information
6 relevant to the expungement petition to the court.

7 (3) Unless the State's Attorney or a victim files an objection to the petition
8 for expungement within 30 days after the petition is served, the court shall pass an order
9 requiring the expungement of all police records and court records about the charge.

10 (f) (1) If the State's Attorney or a victim files a timely objection to the petition,
11 the court shall hold a hearing.

12 (2) The court shall order the expungement of all police records and court
13 records about the charge after a hearing, if the court finds and states on the record:

14 (i) that the conviction is eligible for expungement under subsection
15 (a) of this section;

16 (ii) that the person is eligible for expungement under subsection (d)
17 of this section;

18 (iii) that giving due regard to the nature of the crime, the history and
19 character of the person, and the person's success at rehabilitation, the person is not a risk
20 to public safety; and

21 (iv) that an expungement would be in the interest of justice.

22 (g) If at a hearing the court finds that a person is not entitled to expungement,
23 the court shall deny the petition.

24 (h) Unless an order is stayed pending appeal, within 60 days after entry of the
25 order, every custodian of the police records and court records that are subject to the order
26 of expungement shall advise in writing the court and the person who is seeking
27 expungement of compliance with the order.

28 (i) (1) The State's Attorney is a party to the proceeding.

29 (2) A party aggrieved by the decision of the court is entitled to the appellate
30 review as provided in the Courts Article.

31 **Article – Transportation**

32 16–303.

1 (a) A person may not drive a motor vehicle on any highway or on any property
2 specified in § 21–101.1 of this article while the person’s license or privilege to drive is
3 refused in this State or any other state.

4 (b) A person may not drive a motor vehicle on any highway or on any property
5 specified in § 21–101.1 of this article while the person’s license or privilege to drive is
6 canceled in this State.

7 (c) A person may not drive a motor vehicle on any highway or on any property
8 specified in § 21–101.1 of this article while the person’s license or privilege to drive is
9 suspended in this State.

10 (d) A person may not drive a motor vehicle on any highway or on any property
11 specified in § 21–101.1 of this article while the person’s license or privilege to drive is
12 revoked in this State.

13 (e) A person may not drive a motor vehicle on any highway or on any property
14 specified in § 21–101.1 of this article while the person’s license issued by any other state is
15 canceled.

16 (f) A person may not drive a motor vehicle on any highway or on any property
17 specified in § 21–101.1 of this article while the person’s license issued by any other state is
18 suspended.

19 (g) A person may not drive a motor vehicle on any highway or on any property
20 specified in § 21–101.1 of this article while the person’s license issued by any other state is
21 revoked.

22 (h) A person may not drive a motor vehicle on any highway or on any property
23 specified in § 21–101.1 of this article while the person’s license or privilege to drive is
24 suspended under § 16–203, § 16–206(a)(2) for failure to attend a driver improvement
25 program, § 17–106, § 26–204, § 26–206, or § 27–103 of this article.

26 (i) (1) This subsection applies only to a person whose license or privilege to
27 drive is suspended under the traffic laws or regulations of another state for:

28 (i) Failure to comply with a notice to appear in a court of that state
29 contained in a traffic citation issued to the person; or

30 (ii) Failure to pay a fine for a violation of any traffic laws or
31 regulations of that state.

32 (2) A person may not drive a motor vehicle on any highway or on any
33 property specified in § 21–101.1 of this article while the person’s license or privilege to drive
34 is suspended under the traffic laws or regulations of any other state as described in
35 paragraph (1) of this subsection.

1 (j) (1) Except as provided in paragraph (2) of this subsection, any individual
2 who violates a provision of this section shall be assessed the points as provided for in §
3 16-402(a)(35) of this title.

4 (2) Any individual who violates a provision of subsection (h) or (i) of this
5 section shall be assessed the points as provided for in § 16-402(a)(14) of this title.

6 (k) (1) Except as provided in paragraph (2) of this subsection, a person
7 convicted of a violation of this section is subject to:

8 (i) For a first offense, imprisonment not exceeding 1 year or a fine
9 not exceeding \$1,000 or both; and

10 (ii) For a second or subsequent offense **COMMITTED WITHIN 3**
11 **YEARS OF THE PRIOR CONVICTION**, imprisonment not exceeding 2 years or a fine not
12 exceeding \$1,000 or both.

13 (2) **(I) A PERSON CHARGED WITH A VIOLATION OF SUBSECTION (H)**
14 **OR (I) OF THIS SECTION:**

15 **1. MUST APPEAR IN COURT; AND**

16 **2. MAY NOT PREPAY THE FINE.**

17 **(II) A person convicted of a violation of subsection (h) or (i) of this**
18 **section]:**

19 (i) Is] IS subject to a fine not exceeding \$500];

20 (ii) Must appear in court; and

21 (iii) May not prepay the fine].

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