

SUPPORT SENATE BILL 454 / HOUSE BILL 73

Allow Expungements After The Individual Has Fully Served Their Time

THE CHALLENGE

- According to the Bureau of Justice Statistics (BJS), [it is estimated that 1.5 million residents, nearly 25% of Maryland's population](#), have a visible criminal record. (pg. 26)
- A criminal record can present obstacles to employment, housing, public assistance, education, occupational licensing, family reunification, good credit, and more.
- A limited number of charges are eligible for criminal record expungement (deletion) after a returning citizen has completed their entire sentence, including parole, probation, and mandatory supervision.
- A probation or parole violation occurs when a person does not comply with the conditions of their supervision. This may be for allegedly committing another offense or simply missing an appointment.
- [24% of Maryland's prison admissions are for supervision violations](#), according to research from the Council of State Governments Justice Center (CSGJC).
- Probation officers make the call about whether or not to report a minor violation many probation violations can sometimes depend entirely on the mood of one's probation officer at that moment.
- In 2022, the [Court of Special Appeals ruled](#) that **any** probation violation means a conviction is **indefinitely ineligible** for expungement under a legal interpretation that a violation means that the individual has not "satisfactorily completed the sentence" (regardless of the nature of the violation).
- In the "[Abhishek Case](#)," from which the ruling emerged, the violation was for possession of cannabis - which is now legal in Maryland. Due to this violation, Mr. Abhishek is permanently ineligible for expungement, though he waited the required 10-year waiting period and served the length of his incarceration.
- After a person has served an entire sentence, paid the consequence for the violation (additional time or restitution), and waited through a 5-15-year waiting period, they should be eligible to have the charge expunged *if* it is on the expungement list.

CURRENT LAW

- [Criminal Procedure §10-110](#), which determines expungement access for eligible convictions, states that an expungement is *only* allowed "after the person **satisfies** the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision."
- [Criminal Procedure §10-105](#), which determines expungement access for non-convictions and nuisance crimes, states that an expungement is *only* allowed "after the conviction or **satisfactory** completion of the sentence, including probation, that was imposed for the conviction, whichever is later."
- The Abhishek ruling determined that **any** violation, whether technical or a subsequent offense, means an individual is **permanently** ineligible for expungement.
- [Correctional Services § 6-101\(m\)](#) defines a 'technical violation' as "a violation of a condition or probation, parole or mandatory supervision that does *not* involve: 1) an arrest or a summons issued by a commissioner on a statement of charges filed by a law enforcement officer; 2) a violation of a criminal prohibition other than a minor traffic offense; 3) a violation of a no-contact or stay-away order; or 4) absconding.

SOLUTION: ALLOW EXPUNGEMENT AT THE COMPLETION OF THE SENTENCE

- Senate Bill 454/ House Bill 73 allows expungement to be accessible at "the **time when a sentence has expired**, including any period of probation, parole, or mandatory supervision"
- This means that once a person has served the entire sentence and finished the additional 5-10-year waiting period, they will be eligible for expungement if the charge is eligible.
- The State's Attorney's Office and the victim **retain the right to object** to the expungement, leaving the courts to decide whether the expungement is in the interest of justice.

For more information, contact:

Christopher Dews / Assistant Vice President / cdews@cgagroup.com / 301-412-5399