

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 270
Judiciary

(Delegate Grammer)

Criminal Procedure - Expungement - Failure to Obey a Court Order to Report to Confinement

This bill expands § 10-110 of the Criminal Procedure Article to authorize a person to file a petition for expungement of a conviction under § 9-405(a)(2) of the Criminal Law Article for escape in the second degree – failure to obey a court order to report to a place of confinement.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Expungement under § 10-110 of the Criminal Procedure Article

Other than specified court initiated expungements under § 10-105.1 of the Criminal Procedure Article, to begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article, which establishes eligibility for the expungement of records pertaining to a criminal charge or conviction.

Expungement of a court or police record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record or the part of that record that provides access.

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article, arise from the same incident, transaction, or set of facts, they are considered to be a unit. A charge for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit. This “unit rule” applies to expungements under §§ 10-105 and 10-110.

Section 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements.

Petitions for expungement under § 10-110 are subject to specified waiting periods. If the person is convicted of a new crime during the applicable waiting period, the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement. A person is not eligible for expungement if the person is a defendant in a pending criminal proceeding.

A State’s Attorney may file a timely objection to the petition for expungement, as specified.

Escape in the Second Degree - § 9-405(a)(2) of the Criminal Law Article.

Among other things, the prohibition on escape in the second degree prohibits a person from knowingly failing to obey a court order to report to a place of confinement. Violators are guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a maximum fine of \$5,000. A sentence imposed for escape in the second degree must be consecutive to any term of confinement being served or to be served at the time of the escape, may not be suspended, and may include the entry of a judgment for all reasonable expenses incurred in returning the person to the place of confinement, as specified.

“Place of confinement” means a correctional facility, a facility of the Maryland Department of Health, or any other facility in which a person is confined under color of law. It does not include a juvenile detention center or other specified juvenile facilities.

Additional Comments: According to the Judiciary, there were 43 convictions in the State’s trial courts under § 9-405(a)(2) of the Criminal Law Article in fiscal 2022 and fiscal 2023.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Howard and Prince George’s counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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