



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
HB0269

Criminal Procedure - Disclosure of Expunged Records - Alterations

Bill Summary

This bill expands an existing prohibition to prohibit a unit, official, or employee of the State or a political subdivision of the State from denying a person's application for a license, permit, registration, or governmental service solely because the person refused to disclose information about criminal charges that have been expunged. The bill also prohibits an educational institution from expelling or refusing to admit a person solely because the person refused to disclose information about criminal charges that have been expunged.

Racial Equity Impact Statement

The bill's provisions protect individuals from discrimination by specified government entities and educational institutions when they do not disclose expunged records of criminal charges or convictions. There is no data currently available to estimate the extent of the bill's impact since there is no dispositive data regarding (1) the demographic composition of applicants for expungement; (2) denials of licenses, permits, registrations, or admissions by government entities or educational institutions; and (3) denials specifically based on refusals to disclose expunged records. Statewide criminal justice data suggests, however, that Black individuals, in particular, could benefit under the bill to the extent they are currently denied services for failing to disclose expunged records.

Analysis

The bill generally modifies State law to remove barriers faced by individuals with expunged criminal records by prohibiting denials of access to occupational licenses, permits, registrations, or government services based solely on an individual's refusal to disclose information regarding

an expunged criminal record. Refusal to disclose this information also may not be used as a sole justification for expulsion from, or admittance to, an educational institution.

Expungements Generally

Records eligible for expungement in Maryland include records of (1) arrest and detention; (2) criminal charges; (3) suspected violations of a criminal law; (4) violations of the Transportation Article for which a term of imprisonment may be imposed; and (5) a civil offense or infraction, with some exceptions for specified juvenile offenses.

Specifically, § 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. With some exceptions, 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. In general, § 10-110 applies to expungements of convictions, and § 10-105 applies to the expungement of criminal charges that resulted in a disposition other than a conviction.

Potential Impacts

The bill's provisions could help protect individuals with expunged records of criminal charges and/or convictions from the denial of economic opportunities based solely on their refusal to disclose expunged information. Criminal records, regardless of their nature, pose a significant challenge for individuals seeking to rebuild their lives following a conviction, arrest, or charge. Securing employment, housing, health care, education, and access to government services can all be more difficult for those with a criminal history. Previous research has detailed notable collateral consequences to having a criminal record that often exacerbate the challenges of social reintegration following imprisonment. Even individuals convicted of criminal charges that do not face imprisonment may still see significant adverse effects resulting from a criminal record.

According to the Administrative Office of the Courts (AOC), there were 38,448 petitions for expungement in Maryland's circuit courts and the District Court in fiscal 2022 and 46,251 petitions in fiscal 2023. There is no demographic data currently available that indicates the racial and ethnic composition of expungement applicants.

Assuming that trends for expungement applications are similar to trends for charges, convictions, and incarceration in the State, a significant number and percentage of Black individuals could benefit from protections under the bill. The Department of Public Safety and Correctional Services reports that, for fiscal 2023, Black individuals made up 71% of Maryland's prison population contrasted with their 29% share of the State's overall population. It is therefore a reasonable assumption that Black individuals comprise a meaningful portion of the population seeking to expunge criminal records.

By way of example, records of cannabis possession violations are eligible for expungement under specified conditions. According to AOC data between 2010 and 2021, Black individuals comprise 67% of those charged for various possession violations compared to 30% of their white

counterparts. Assuming that the overall pool of expungement applicants is similarly distributed, Black individuals are potentially the most affected by the provisions of the bill.

Applicant and Denial Data

No reliable data exists to indicate significant denial activity by governmental and/or educational entities related to individuals that have criminal records. Chapter 796 of 2018 required specified departments to report information related to the denial of licenses or certificates for the preceding five years based on an applicant's criminal history. While some of the departments covered under Chapter 796 reported little to no data, the Maryland Department of Labor and the Maryland Department of Health reported that less than 1% of the applicants for various licenses were individuals with criminal histories.

There is even less data regarding denials due to an applicant's refusal to disclose information within an expunged criminal record. There is also no data on admittance denials and/or expulsions from educational institutions. Despite the absence of meaningful data documenting actual adverse impacts under existing law, the bill's provisions could potentially encourage more individuals with a criminal record to apply for governmental or educational services.

Conclusion

There is no way to reliably measure the impact of the bill without demographic data for expungement applicants, applicants to the entities covered by the bill, and recent data relating to the reasons for denial of applications by government entities and/or educational institutions. To the extent that individuals are denied or discouraged to apply for licenses, permits, registrations, and government services, or denied admittance to educational institutions solely due to their refusal to disclose information contained within an expunged criminal record, the provisions of the bill would provide more access to education, employment, professional development, and the economic security afforded by such access. Black individuals could benefit the most from the bill as these individuals are likely overrepresented in the population of those charged, arrested, convicted, and incarcerated for many of the crimes eligible for expungement.

Information Sources: Administrative Office of the Courts; Governor's Office of Crime Prevention and Policy; U.S. Bureau of Labor Statistics; Department of Public Safety and Correctional Services; Council of State Governments Justice Center; Maryland Department of the Environment; Department of Human Services; Maryland Department of Agriculture; Maryland Department of Labor; Department of Legislative Services

Analysis by: Dr. Mikaela Zimmerman

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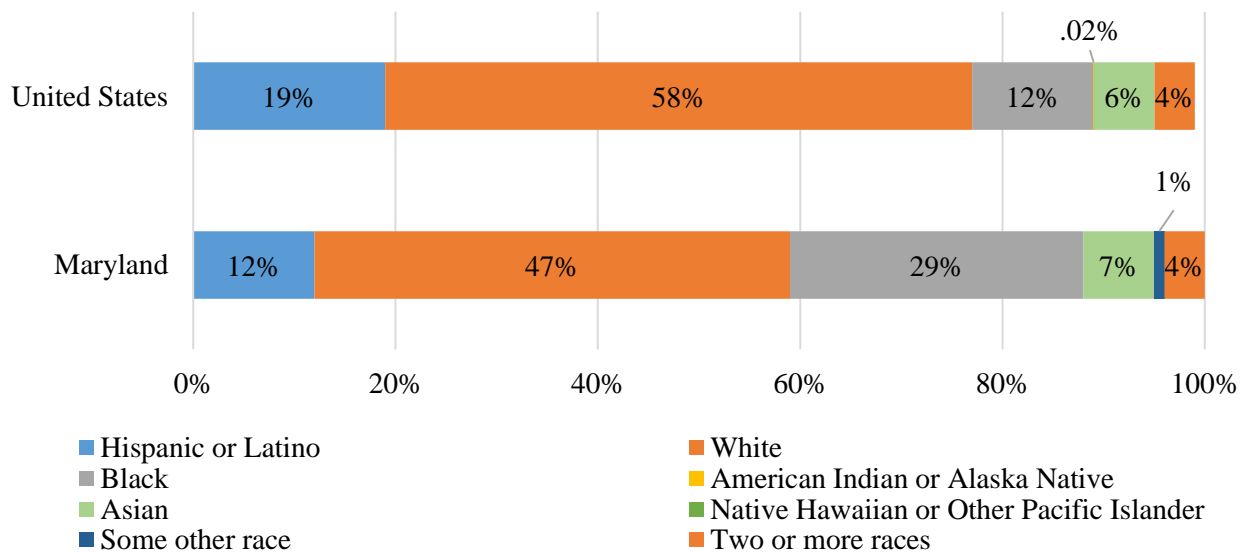
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.