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**By: Delegate Vallario**

Introduced and read first time: January 19, 1996

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Expungement of Records - Revision**

3 FOR the purpose of revising stylistically certain provisions concerning expungement of  
4 records relating to criminal charges; and generally relating to expungement of  
5 records of criminal charges.

6 BY repealing and reenacting, with amendments,  
7 Article 27 - Crimes and Punishments  
8 Section 737  
9 Annotated Code of Maryland  
10 (1992 Replacement Volume and 1995 Supplement)

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

13 **Article 27 - Crimes and Punishments**

14 737.

15 (a) A person charged with the commission of a crime may file a petition setting  
16 forth the relevant facts and requesting expungement of the police records, court records,  
17 and other records maintained by the State of Maryland and its subdivisions, pertaining to  
18 the charge if:

19 (1) The person is acquitted,

20 (2) The charge is otherwise dismissed or quashed,

21 (3) A judgment of probation [without finding a verdict or probation on stay  
22 of entry of] BEFORE judgment is entered,

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1 (4) A nolle prosequi is entered,

2 (5) The proceeding is placed on the stet docket,

3 (6) The case is compromised pursuant to Article 10, § 37 of this Code,

4 (7) The person is convicted of only one criminal act, which is not a crime of  
5 violence, and is subsequently granted a full and unconditional pardon by the Governor, or

6 (8) The charge was transferred to Juvenile Court jurisdiction under § 594A  
7 of this article.

8 (b) (1) [A] IF A CRIMINAL CHARGE WAS TRANSFERRED TO THE JUVENILE  
9 COURT UNDER § 594A OF THIS ARTICLE, a court shall grant a petition [under subsection  
10 (a)(8) of this section] FOR EXPUNGEMENT if:

11 (i) The charge transferred under § 594A of this article did not result  
12 in the filing of a petition under § 3-810 of the Courts and Judicial Proceedings Article; or

13 (ii) The charge did result in the filing of a petition under § 3-810 of  
14 the Courts and Judicial Proceedings Article but the decision on the petition was a finding  
15 of facts-not-sustained.

16 (2) (I) A PETITION FOR EXPUNGEMENT OF A CRIMINAL CHARGE  
17 TRANSFERRED TO THE JUVENILE COURT UNDER § 594A OF THIS ARTICLE MAY BE  
18 FILED AT ANY TIME AFTER:

19 1. IF A PETITION IS NOT FILED UNDER § 3-810 OF THE  
20 COURTS ARTICLE, THE DATE OF THE DECISION NOT TO FILE A PETITION; OR

21 2. IF A PETITION IS FILED UNDER § 3-810 OF THE COURTS  
22 ARTICLE, THE DECISION ON A PETITION OF FACTS-NOT-SUSTAINED.

23 [(2)] (II) If a charge transferred under § 594A of this article resulted in the  
24 filing of a petition under § 3-810 of the Courts and Judicial Proceedings Article and the  
25 adjudication of the child as delinquent, the court may grant a petition[of] FOR  
26 expungement [under subsection (a)(8) of this section] on or after the 21st birthday of the  
27 petitioner.

28 (c) The petition shall be filed in the court in which the proceeding was  
29 commenced. If the proceeding was commenced in one court and transferred to another  
30 court, the petition shall be filed in the court to which the proceeding was transferred. If  
31 the proceeding in a court of original jurisdiction was appealed to a court exercising  
32 appellate jurisdiction, the petition shall be filed in the appellate court. However, the  
33 appellate court may remand the matter to the court of original jurisdiction.

34 [(d) (1) With the exception of a petition based on subsection (a)(3), (4), (7), or  
35 (8) of this section or a petition filed under paragraph (2) of this subsection, the petition  
36 may not be filed earlier than 3 years after the date the judgment or order was entered or  
37 the action was taken which terminated the proceeding. However, except for an acquittal  
38 on grounds of insanity, the three-year waiting period does not apply to a circumstance  
39 specified in subsection (a)(1) or subsection (a)(2) if a person files, with the petition, a  
40 written general waiver and release, in proper legal form, of all claims she may have against

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1 any person for tortious conduct arising from the charge. With respect to subsection (a)(3)  
2 of this section, the petition may not be filed earlier than the later of: (1) 3 years after the  
3 date of the judgment or order of probation; or (2) the date of the person's discharge from  
4 probation. With respect to subsection (a)(4), the petition may be filed immediately after  
5 the nolle prosequi is entered. With respect to subsection (a)(7) of this section, the  
6 petition may not be filed earlier than 5 years nor later than 10 years after the pardon was  
7 signed by the Governor.

8 (2) The court may grant a petition for expungement at any time upon a  
9 showing of good cause by the petitioner.]

10 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
11 PETITION FOR EXPUNGEMENT BASED ON AN ACQUITTAL OR A DISMISSAL OR  
12 QUASHING OF A CHARGE MAY NOT BE FILED EARLIER THAN 3 YEARS AFTER THE  
13 DATE OF THE ACQUITTAL.

14 (2) (I) A PETITION FOR EXPUNGEMENT MAY BE FILED EARLIER THAN  
15 3 YEARS AFTER THE DATE OF THE ACQUITTAL OR THE DISMISSAL OR QUASHING OF  
16 CHARGES IF THE PERSON FILES WITH THE PETITION A WRITTEN GENERAL WAIVER  
17 AND RELEASE, IN PROPER LEGAL FORM, OF ALL CLAIMS THE PERSON MAY HAVE  
18 AGAINST ANY PERSON FOR TORTIOUS CONDUCT ARISING FROM THE CHARGE.

19 (II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I)  
20 OF THIS PARAGRAPH, A PETITION FOR EXPUNGEMENT MAY NOT BE FILED EARLIER  
21 THAN 3 YEARS AFTER ACQUITTAL IF THE ACQUITTAL WAS ON THE GROUNDS OF A  
22 VERDICT OF NOT CRIMINALLY RESPONSIBLE.

23 (E) A PETITION FOR EXPUNGEMENT BASED ON A PROBATION BEFORE  
24 JUDGMENT MAY NOT BE FILED EARLIER THAN ~~3 YEARS AFTER~~ THE LATER OF:

25 (1) 3 YEARS AFTER THE DATE OF THE ENTRY OF JUDGMENT OR ORDER  
26 OF PROBATION; OR

27 (2) THE DATE OF THE PERSON'S DISCHARGE FROM PROBATION.

28 (F) A PETITION FOR EXPUNGEMENT MAY BE FILED IMMEDIATELY AFTER  
29 THE ENTRY OF A NOLLE PROSEQUI.

30 (G) A PETITION FOR EXPUNGEMENT BASED ON A FULL AND UNCONDITIONAL  
31 PARDON BY THE GOVERNOR FOR A CONVICTION FOR ONLY ONE CRIMINAL ACT  
32 WHICH IS NOT A CRIME OF VIOLENCE MAY NOT BE FILED EARLIER THAN 5 YEARS  
33 NOR LATER THAN 10 YEARS AFTER THE PARDON WAS SIGNED BY THE GOVERNOR.

34 (H) A PETITION FOR EXPUNGEMENT BASED ON THE ENTRY OF A STET OR A  
35 COMPROMISE UNDER ARTICLE 10, § 37 OF THE CODE MAY NOT BE FILED EARLIER  
36 THAN 3 YEARS AFTER THE JUDGMENT OR ORDER WAS ENTERED.

37 (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COURT  
38 MAY GRANT A PETITION FOR EXPUNGEMENT AT ANY TIME ON A SHOWING OF  
39 GOOD CAUSE BY THE PETITIONER.

40 [(e)] (J) A copy of the petition shall be served on the State's Attorney. Unless the  
41 State's Attorney files an objection to the petition within 30 days after it is served on him,

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1 the court shall enter an order requiring the expungement of police records and court  
2 records pertaining to the charge.

3 [(f)] (K) If the State's Attorney files a timely objection to the petition, the court  
4 shall conduct a hearing. If the court finds that the person is entitled to expungement, it  
5 shall enter an order requiring the expungement of police records and all court records  
6 pertaining to the charge. Otherwise, it shall deny the petition. If the petition is based  
7 upon the entry of a judgment of probation [without finding a verdict, probation on stay of  
8 entry of judgment] BEFORE JUDGMENT, a nolle prosequi, placement on the stet docket,  
9 or a full and unconditional pardon by the Governor, the person is not entitled to  
10 expungement if:

11 (1) He has since been convicted of any crime, other than violations of the  
12 State vehicle laws or other traffic laws, ordinances, or regulations not carrying a possible  
13 sentence of imprisonment, or

14 (2) He is then a defendant in a pending criminal proceeding.

15 [(g)] (L) The State's Attorney is a party to the proceeding. Any party aggrieved by  
16 the decision of the court has the right of appellate review provided in the Courts and  
17 Judicial Proceedings Article.

18 [(h)] (M) Every custodian of the police records and court records subject to the  
19 order shall, within 60 days after entry of the order, unless it is stayed pending an appeal,  
20 advise the court and the person in writing of compliance with the order.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1996.