
By: Delegate Vallario

Introduced and read first time: January 24, 1996

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 1996

CHAPTER ____

1 AN ACT concerning

2 **Criminal Procedure - Expungement of Records - Revision - Waiver for Nolle Prosequi**

3 FOR the purpose of revising stylistically certain provisions concerning expungement of
4 records relating to criminal charges; prohibiting the expungement of a nolle
5 prosequi until a certain time unless a certain waiver is filed with the petition for
6 expungement; and generally relating to expungement of records of criminal charges.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 737
10 Annotated Code of Maryland
11 (1992 Replacement Volume and 1995 Supplement)

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

14 **Article 27 - Crimes and Punishments**

15 737.

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

20 (1) The person is acquitted,

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

2

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

3 (4) A nolle prosequi is entered,

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

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

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

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

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

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

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

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

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

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

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

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

36 [(d) (1) With the exception of a petition based on subsection (a)(3), (4), (7), or
37 (8) of this section or a petition filed under paragraph (2) of this subsection, the petition
38 may not be filed earlier than 3 years after the date the judgment or order was entered or
39 the action was taken which terminated the proceeding. However, except for an acquittal

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1 on grounds of insanity, the three-year waiting period does not apply to a circumstance
2 specified in subsection (a)(1) or subsection (a)(2) if a person files, with the petition, a
3 written general waiver and release, in proper legal form, of all claims she may have against
4 any person for tortious conduct arising from the charge. With respect to subsection (a)(3)
5 of this section, the petition may not be filed earlier than the later of: (1) 3 years after the
6 date of the judgment or order of probation; or (2) the date of the person's discharge from
7 probation. With respect to subsection (a)(4), the petition may be filed immediately after
8 the nolle prosequi is entered. With respect to subsection (a)(7) of this section, the
9 petition may not be filed earlier than 5 years nor later than 10 years after the pardon was
10 signed by the Governor.

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

13 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
14 PETITION FOR EXPUNGEMENT BASED ON THE FOLLOWING DISPOSITIONS MAY NOT
15 BE FILED EARLIER THAN 3 YEARS AFTER THE DATE OF THE DISPOSITION:

16 (I) AN ACQUITTAL;

17 (II) A NOLLE PROSEQUI; OR

18 (III) A DISMISSAL OR QUASHING OF A CHARGE.

19 (2) (I) A PETITION FOR EXPUNGEMENT BASED ON THE DISPOSITIONS
20 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION MAY BE FILED EARLIER THAN 3
21 YEARS AFTER THE DATE OF THE DISPOSITION IF THE PERSON FILES WITH THE
22 PETITION A WRITTEN GENERAL WAIVER AND RELEASE, IN PROPER LEGAL FORM,
23 OF ALL CLAIMS THE PERSON MAY HAVE AGAINST ANY PERSON FOR TORTIOUS
24 CONDUCT ARISING FROM THE CHARGE.

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

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

31 (1) 3 YEARS AFTER THE DATE OF THE ENTRY OF JUDGMENT OR ORDER
32 OF PROBATION; OR

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

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

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

1 (H) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A COURT
2 MAY GRANT A PETITION FOR EXPUNGEMENT AT ANY TIME ON A SHOWING OF
3 GOOD CAUSE BY THE PETITIONER.

4 [(e)] (I) A copy of the petition shall be served on the State's Attorney. Unless the
5 State's Attorney files an objection to the petition within 30 days after it is served on him,
6 the court shall enter an order requiring the expungement of police records and court
7 records pertaining to the charge.

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

16 (1) He has since been convicted of any crime, other than violations of the
17 State vehicle laws or other traffic laws, ordinances, or regulations not carrying a possible
18 sentence of imprisonment[.]; or

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

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

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

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