
By: **Delegate Dewberry**
Introduced and read first time: February 9, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Records - Expungement**

3 FOR the purpose of making certain provisions relating to expungement of criminal
4 records applicable to records that pertain to motor vehicle violations and certain
5 other traffic laws, ordinances, and regulations; and generally relating to
6 criminal records, motor vehicles, and expungement.

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 735 and 736
10 Annotated Code of Maryland
11 (1996 Replacement Volume and 1997 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**

15 735.

16 (a) In this subtitle, the following words have the meanings indicated.

17 (b) "Court records" means all official records maintained by the clerk of a
18 court or other court personnel pertaining to a criminal proceeding INCLUDING
19 RECORDS OF VIOLATIONS OF THE TRANSPORTATION ARTICLE. It includes indices,
20 docket entries, charging documents, pleadings, memoranda, transcriptions of
21 proceedings, electronic recordings, orders, judgments, and decrees. It does not
22 include:

23 (1) [Records pertaining to violations of the vehicle laws of the State or of
24 any other traffic law, ordinance, or regulation;

25 (2)] Written opinions of a court that have been published;

26 [(3)] (2) Cash receipt and disbursement records necessary for audit
27 purposes; or

1 [(4)] (3) A court reporter's transcript of proceedings in multiple
2 defendant cases.

3 (c) "Expungement", with respect to court records or police records, means the
4 effective removal of these records from public inspection:

5 (1) By obliteration;

6 (2) By removal to a separate secure area to which the public and other
7 persons having no legitimate reason for being there are denied access; or

8 (3) If effective access to a record can be obtained only by reference to
9 other records, by the expungement of the other records, or the part of them providing
10 the access.

11 (d) "Law enforcement agency" includes any State, county, and municipal police
12 department or agency, sheriff's offices, the State's Attorney's offices, and the Attorney
13 General's office.

14 (e) "Police records" means all official records maintained by a law enforcement
15 agency or the Central Repository pertaining to the arrest and detention of or further
16 proceeding against a person on a criminal charge or for a suspected violation of a
17 criminal law. It does not include investigatory files, police work-product records used
18 solely for police investigation purposes, or records pertaining to violations of the
19 vehicle laws of the State or of any other traffic law, ordinance, or regulation.

20 (f) "Crime of violence" has the meaning stated in § 643B(a) of this article.

21 (g) "Central Repository" means the Criminal Justice Information System
22 Central Repository of the Department of Public Safety and Correctional Services.

23 736.

24 (a) If a person is arrested, detained, or confined by a law enforcement agency
25 for a suspected violation of a criminal law [other than a violation of the vehicle laws
26 of the State or any other traffic law, ordinance, or regulation,] and is released without
27 being charged with the commission of a crime, he may give written notice of these
28 facts to any law enforcement agency which he believes may have police records
29 concerning that arrest, detention, or confinement, and request the expungement of
30 those police records.

31 (b) This notice may not be given prior to the expiration of the statute of
32 limitations for tort actions arising from the incident unless the person attaches to the
33 notice a written general waiver and release, in proper legal form, of all claim he may
34 have against any person for tortious conduct arising from the incident. The notice and
35 waiver are not subject to expungement, but shall be maintained by the law
36 enforcement agency at least until the expiration of any applicable statute of
37 limitations. The notice must be given within eight years after the date of the incident.

1 (c) The law enforcement agency shall, upon receipt of a timely filed notice,
2 promptly investigate and attempt to verify the facts stated in the notice. If it finds the
3 facts to be verified, it shall:

4 (1) Make a diligent search for any police records concerning that arrest,
5 detention, or confinement of the person;

6 (2) Within 60 days after receipt of the notice, expunge the police records
7 it has concerning that arrest, detention, or confinement; and

8 (3) Notify any other law enforcement agency and the Central Repository
9 it believes may have police records concerning that arrest, detention, or confinement
10 of the notice and its verification of the facts contained in it. A copy of this notice shall
11 be sent to the person requesting expungement.

12 (d) The other law enforcement agency and the Central Repository shall,
13 within 30 days after receipt of the notice provided for in subsection (c)(3):

14 (1) Make a diligent search for any police records concerning the arrest,
15 detention, or confinement; and

16 (2) Expunge the police records it has concerning that arrest, detention,
17 or confinement.

18 (e) If the law enforcement agency to which the person has addressed his notice
19 finds that the person is not entitled to an expungement of the police records, it shall,
20 within 60 days after receipt of the notice, advise the person in writing of its denial of
21 the request for expungement and of the reasons for its denial.

22 (f) A person whose request for expungement is denied in accordance with
23 subsection (e) may, within 30 days after written notice of the denial is mailed or
24 otherwise delivered to him, file an application in the District Court having proper
25 venue against the law enforcement agency for an order of expungement. If the court
26 finds, after a hearing held upon proper notice to the agency, that the person is
27 entitled to expungement, it shall enter an order requiring the agency to comply with
28 subsection (c). Otherwise, it shall deny the application. The agency is deemed to be a
29 party to the proceeding. All parties to the proceeding have the right of appellate
30 review on the record provided for in the Courts and Judicial Proceedings Article with
31 respect to appeals in civil cases from the District Court.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1998.