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#### (PRE-FILED)

By: Chairman, Judicial Proceedings Committee (Departmental - Public Safety and Correctional Services)

Requested: November 7, 2001

Introduced and read first time: January 9, 2002

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 29, 2002

CHAPTER\_\_\_\_

### 1 AN ACT concerning

# 2 Criminal Procedure - Expungement - Law Enforcement Unit

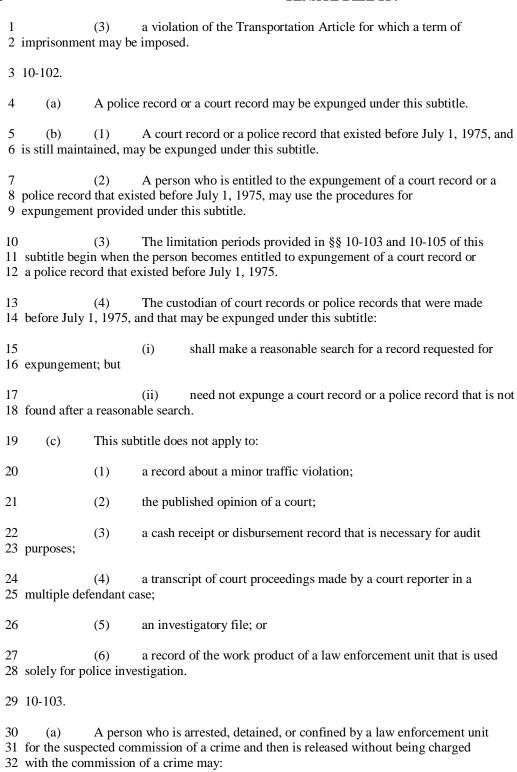
- 3 FOR the purpose of including the State Prosecutor in the definition of "law
- 4 enforcement unit" as it is used in provisions of law relating to the expungement
- 5 of certain court or police records; and generally relating to expungement of court
- 6 and police records.
- 7 BY repealing and reenacting, with amendments,
- 8 Article Criminal Procedure
- 9 Section 10-101
- 10 Annotated Code of Maryland
- 11 (2001 Volume)
- 12 BY repealing and reenacting, without amendments,
- 13 Article Criminal Procedure
- 14 Section 10-102 through 10-105
- 15 Annotated Code of Maryland
- 16 (2001 Volume)
- 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 18 MARYLAND, That the Laws of Maryland read as follows:

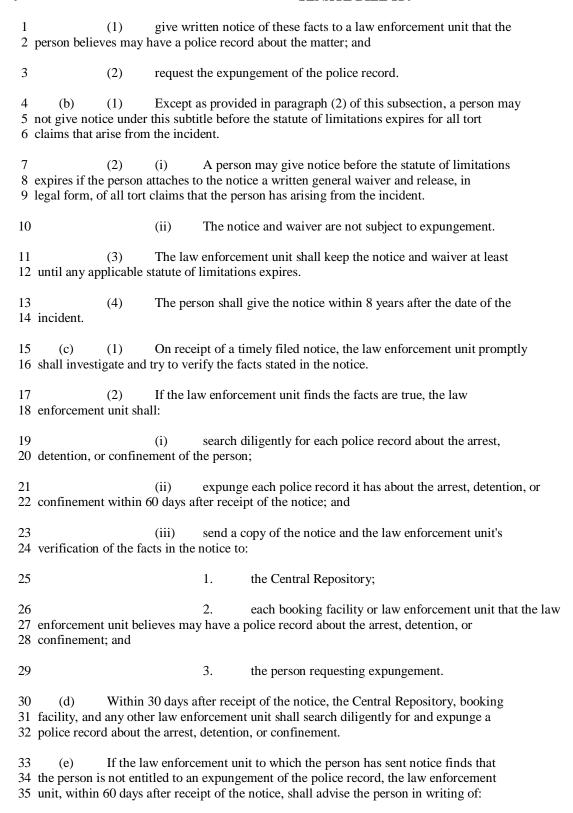
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(2)

### 1 **Article - Criminal Procedure** 2 10-101. 3 (a) In this subtitle the following words have the meanings indicated. 4 "Central Repository" means the Criminal Justice Information System (b) 5 Central Repository in the Department. "Court record" means an official record of a court about a criminal 6 (c) proceeding that the clerk of a court or other court personnel keeps. 7 "Court record" includes: 8 (2) 9 a record of a violation of the Transportation Article for which a 10 term of imprisonment may be imposed; and 11 an index, docket entry, charging document, pleading, 12 memorandum, transcription of proceedings, electronic recording, order, and 13 judgment. 14 "Expunge" means to remove information from public inspection in 15 accordance with this subtitle. "Expungement" with respect to a court record or a police record means 16 (e) 17 removal from public inspection: 18 (1) by obliteration; 19 by removal to a separate secure area to which persons who do not 20 have a legitimate reason for access are denied access; or 21 if access to a court record or police record can be obtained only by 22 reference to another court record or police record, by the expungement of it or the part 23 of it that provides access. 24 (f) "Law enforcement unit" means a State, county, or municipal police 25 department or unit, the office of a sheriff, the office of a State's Attorney, THE OFFICE OF THE STATE PROSECUTOR, or the office of the Attorney General of the State. 27 "Minor traffic violation" means a nonincarcerable violation of the (g) 28 Maryland Vehicle Law or any other traffic law, ordinance, or regulation. "Police record" means an official record that a law enforcement unit. 29 30 booking facility, or the Central Repository maintains about the arrest and detention 31 of, or further proceeding against, a person for: 32 (1) a criminal charge;

a suspected violation of a criminal law; or





1		(1)	the denia	al of the request for expungement; and			
2		(2)	the reaso	ons for the denial.			
5	denied under	t in the D	on (e) of	If a request by the person for expungement of a police record is this section, the person may apply for an order of ourt that has proper venue against the law			
7 8	written notice	e of the d		The person shall file the application within 30 days after the nailed or delivered to the person.			
9 10	hearing.	(2)	After no	tice to the law enforcement unit, the court shall hold a			
11 12		(3) rder the l		urt finds that the person is entitled to expungement, the cement unit to expunge the police record.			
13 14		(4) cord, the		urt finds that the person is not entitled to expungement of all deny the application.			
15		(5)	(i)	The law enforcement unit is a party to the proceeding.			
	the record, as	s provide		Each party to the proceeding is entitled to appellate review on Courts Article for appeals in civil cases from the District			
19	10-104.						
22 23 24	(a) Unless the State objects and shows cause why a record should not be expunged, if the State enters a nolle prosequi as to all charges in a criminal case within the jurisdiction of the District Court with which a defendant has not been served, the District Court may order expungement of each court record, police record, or other record that the State or a political subdivision of the State keeps as to the charges.						
26 27				t may not assess any costs against a defendant for a a) of this section.			
28	10-105.						
31 32	(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:						
34		(1)	the perso	on is acquitted;			
35		(2)	the charg	ge is otherwise dismissed;			

	(3) with a violation of § 2 388B of the Code;		ion before judgment is entered, unless the person is charged the Transportation Article or Article 27, § 388A or §		
4	(4)	a nolle p	prosequi is entered;		
5 6	(5) the criminal charge "s		t indefinitely postpones trial of a criminal charge by marking e docket;		
7	(6)	the case	is compromised under Article 27, § 12A-5 of the Code;		
8 9	(7) article; or	the charg	ge was transferred to the juvenile court under § 4-202 of this		
10	(8)	the perso	on:		
11 12	of violence; and	(i)	is convicted of only one criminal act, and that act is not a crime		
13		(ii)	is granted a full and unconditional pardon by the Governor.		
14 15	(b) (1) person shall file a pet		as provided in paragraphs (2) and (3) of this subsection, a me court in which the proceeding began.		
	(2) court, the person shall transferred.		oceeding began in one court and was transferred to another petition in the court to which the proceeding was		
	(3) to a court exercising appellate court.	(i) appellate	If the proceeding in a court of original jurisdiction was appealed jurisdiction, the person shall file the petition in the		
22 23	original jurisdiction.	(ii)	The appellate court may remand the matter to the court of		
26	4 (c) (1) A petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within 3 years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.				
28 29	(2) may not be filed until	-	on for expungement based on a probation before judgment		
30		(i)	the petitioner has been discharged from probation; or		
31		(ii)	3 years have passed since the probation was granted.		
	(3) by the Governor may pardon was signed by	not be fi	on for expungement based on a full and unconditional pardon led earlier than 5 years or later than 10 years after the ernor.		

