

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 688
Judiciary

(Delegate Marriott)

Criminal Procedure - Expungement of Misdemeanor Records

This bill makes three changes to the law governing expungement of criminal records: (1) a person convicted of a misdemeanor offense, other than a sexual offense, may seek expungement once seven years have passed after the conviction, or completion of the sentence, whichever is later; (2) a person is not entitled to expungement if the person, after receipt of a gubernatorial pardon or a probation before judgment, has been convicted of a sexual offense; and (3) a person who is not entitled to expungement of one charge in a unit may nevertheless seek expungement of any other charge in the unit.

Fiscal Summary

State Effect: Potentially significant increase in general fund expenditures if a substantial number of individuals choose to have covered records expunged.

Local Effect: Potentially significant increase in expenditures if a substantial number of individuals choose to have covered records expunged.

Small Business Effect: None.

Analysis

Current Law: A person who has been charged with the commission of a crime 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, under various circumstances listed in the statute. These grounds include acquittal, dismissal of charges, entry of probation before judgment, entry of *nolle prosequi*, stet of charge, and

gubernatorial pardon. Expungement allows such persons to escape the collateral consequences or civil disabilities of such convictions.

Expungement of a court record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

State Fiscal Effect: The bill will potentially affect a substantial number of records. The District Court advises that, in fiscal 2002, 155,907 convictions were entered into its records, the majority of which were misdemeanor charges that would in time qualify for expungement under this bill. The District Court further advises that it would be difficult to expunge one charge from a unit in criminal cases, where the statement of charges contains multiple charges arising out of a single incident. Records prior to 1981 are archived, so it would be necessary to work with the State Archivist to expunge these records (assuming the bill would apply retroactively).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Judiciary (District Court of Maryland, Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2003
mam/cer Revised - Updated Information - March 4, 2003

Analysis by: Rita A. Reimer

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

