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By: **Delegates Carter, Brown, Vallario, Anderson, Kelley, Menes, and Sophocleus Sophocleus, Benson, Branch, Dumais, Griffith, Gutierrez, Haynes, Howard, Jones, Kaiser, Kirk, Krysiak, Marriott, Nathan-Pulliam, Oaks, Paige, Patterson, Petzold, Proctor, Ramirez, Rosenberg, F. Turner, V. Turner, and Vaughn**

Introduced and read first time: January 19, 2004  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 2, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Expungement of Records**

3 FOR the purpose of ~~repealing~~ modifying a provision of law prohibiting the  
4 expungement of an individual's record if the individual has been convicted of  
5 certain other crimes or is a defendant in a pending criminal proceeding;  
6 providing that a person is not entitled to expungement if the petition is based on  
7 the entry of probation before judgment, a nolle prosequi, or a stet, or the grant of  
8 a pardon by the Governor for a certain charge involving child abuse or sexual  
9 abuse of a minor and, since the full or unconditional pardon or entry, the person  
10 has been convicted of a certain charge involving child abuse or sexual abuse of a  
11 minor; providing that a person is not entitled to expungement if the petition is  
12 based on the entry of probation before judgment, a nolle prosequi, or a stet, or  
13 the grant of a pardon by the Governor for a certain crime of violence and, since  
14 the full or unconditional pardon or entry, the person has been convicted of a  
15 certain crime of violence; providing that a person is not entitled to expungement  
16 if the petition is based on the entry of probation before judgment, a nolle  
17 prosequi, or a stet, or the grant of a pardon by the Governor, and the person is a  
18 defendant in a certain proceeding; and generally relating to criminal procedure  
19 and expungement of records.

20 BY repealing and reenacting, with amendments,  
21 Article - Criminal Procedure  
22 Section 10-105(e)  
23 Annotated Code of Maryland

1 (2001 Volume and 2003 Supplement)

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

4 **Article - Criminal Procedure**

5 10-105.

6 (e) (1) If the State's Attorney files a timely objection to the petition, the  
7 court shall hold a hearing.

8 (2) If the court at the hearing finds that the person is entitled to  
9 expungement, the court shall order the expungement of all police records and court  
10 records about the charge.

11 (3) If the court finds that the person is not entitled to expungement, the  
12 court shall deny the petition.

13 (4) The person is not entitled to expungement if:

14 (i) the petition is based on the entry of probation before judgment,  
15 a nolle prosequi, or a stet, or the grant of a pardon by the Governor FOR A CHARGE OF  
16 CHILD ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE OR SEXUAL ABUSE OF  
17 A MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE AND, SINCE THE FULL OR  
18 UNCONDITIONAL PARDON OR ENTRY, THE PERSON HAS BEEN CONVICTED OF CHILD  
19 ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE OR SEXUAL ABUSE OF A  
20 MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE; ~~and~~

21 (ii) ~~the person:~~

22 1. ~~since the full and unconditional pardon or entry, has been~~  
23 ~~convicted of a crime other than a minor traffic violation; or~~

24 2. ~~is a defendant in a pending criminal proceeding.]~~

25 (II) THE PETITION IS BASED ON THE ENTRY OF PROBATION BEFORE  
26 JUDGMENT, A NOLLE PROSEQUI, OR A STET, OR THE GRANT OF A PARDON BY THE  
27 GOVERNOR FOR A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL  
28 LAW ARTICLE AND, SINCE THE FULL OR UNCONDITIONAL PARDON OR ENTRY, THE  
29 PERSON HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF  
30 THE CRIMINAL LAW ARTICLE; OR

31 (III) THE PETITION IS BASED ON THE ENTRY OF PROBATION BEFORE  
32 JUDGMENT, A NOLLE PROSEQUI, OR A STET, OR THE GRANT OF A PARDON BY THE  
33 GOVERNOR, AND THE PERSON IS A DEFENDANT IN A PENDING CRIMINAL  
34 PROCEEDING.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 2004.

