
By: **Delegates Carter, Anderson, Dumais, Gutierrez, Howard, Kaiser,
Marriott, Nathan-Pulliam, Oaks, Paige, Patterson, Ramirez, Rosenberg,
and Vallario**

Introduced and read first time: February 3, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Expungement - Other Charges**

3 FOR the purpose of repealing a certain provision denying entitlement to
4 expungement under certain circumstances relating to a subsequent charge or
5 conviction; repealing a certain provision denying entitlement to expungement
6 under certain circumstances relating to charges arising from the same incident,
7 transaction, or set of facts; providing that the right to expungement of one
8 charge that arises from a particular incident, transaction, or set of facts does not
9 affect any right to expungement of any other charge arising out of the same
10 incident, transaction, or set of facts; and generally relating to expungement of
11 police and court records.

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Procedure
14 Section 10-105
15 Annotated Code of Maryland
16 (2001 Volume and 2003 Supplement)

17 BY repealing
18 Article - Criminal Procedure
19 Section 10-107
20 Annotated Code of Maryland
21 (2001 Volume and 2003 Supplement)

22 BY adding to
23 Article - Criminal Procedure
24 Section 10-107
25 Annotated Code of Maryland
26 (2001 Volume and 2003 Supplement)

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

3 **Article - Criminal Procedure**

4 10-105.

5 (a) A person who has been charged with the commission of a crime, including
6 a violation of the Transportation Article for which a term of imprisonment may be
7 imposed, may file a petition listing relevant facts for expungement of a police record,
8 court record, or other record maintained by the State or a political subdivision of the
9 State if:

10 (1) the person is acquitted;

11 (2) the charge is otherwise dismissed;

12 (3) a probation before judgment is entered, unless the person is charged
13 with a violation of § 21-902 of the Transportation Article or Title 2, Subtitle 5 or §
14 3-211 of the Criminal Law Article;

15 (4) a nolle prosequi is entered;

16 (5) the court indefinitely postpones trial of a criminal charge by marking
17 the criminal charge "stet" on the docket;

18 (6) the case is compromised under § 3-207 of the Criminal Law Article;

19 (7) the charge was transferred to the juvenile court under § 4-202 of this
20 article; or

21 (8) the person:

22 (i) is convicted of only one criminal act, and that act is not a crime
23 of violence; and

24 (ii) is granted a full and unconditional pardon by the Governor.

25 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
26 person shall file a petition in the court in which the proceeding began.

27 (2) If the proceeding began in one court and was transferred to another
28 court, the person shall file the petition in the court to which the proceeding was
29 transferred.

30 (3) (i) If the proceeding in a court of original jurisdiction was appealed
31 to a court exercising appellate jurisdiction, the person shall file the petition in the
32 appellate court.

33 (ii) The appellate court may remand the matter to the court of
34 original jurisdiction.

1 (c) (1) A petition for expungement based on an acquittal, a nolle prosequi, or
2 a dismissal may not be filed within 3 years after the disposition, unless the petitioner
3 files with the petition a written general waiver and release of all the petitioner's tort
4 claims arising from the charge.

5 (2) A petition for expungement based on a probation before judgment
6 may not be filed earlier than the later of:

7 (i) the date the petitioner was discharged from probation; or

8 (ii) 3 years after the probation was granted.

9 (3) A petition for expungement based on a full and unconditional pardon
10 by the Governor may not be filed later than 10 years after the pardon was signed by
11 the Governor.

12 (4) A petition for expungement based on a stet or a compromise under §
13 3-207 of the Criminal Law Article may not be filed within 3 years after the stet or
14 compromise.

15 (5) A court may grant a petition for expungement at any time on a
16 showing of good cause.

17 (d) (1) The court shall have a copy of a petition for expungement served on
18 the State's Attorney.

19 (2) Unless the State's Attorney files an objection to the petition for
20 expungement within 30 days after the petition is served, the court shall pass an order
21 requiring the expungement of all police records and court records about the charge.

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

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

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

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

30 (i) the petition is based on the entry of probation before judgment,
31 a nolle prosequi, or a stet, or the grant of a pardon by the Governor; and

32 (ii) the person:

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

35 2. is a defendant in a pending criminal proceeding.]

1 (f) Unless an order is stayed pending an appeal, within 60 days after entry of
2 the order, every custodian of the police records and court records that are subject to
3 the order of expungement shall advise in writing the court and the person who is
4 seeking expungement of compliance with the order.

5 (g) (1) The State's Attorney is a party to the proceeding.

6 (2) A party aggrieved by the decision of the court is entitled to appellate
7 review as provided in the Courts Article.

8 [10-107.

9 (a) (1) In this subtitle, if two or more charges, other than one for a minor
10 traffic violation, arise from the same incident, transaction, or set of facts, they are
11 considered to be a unit.

12 (2) A charge for a minor traffic violation that arises from the same
13 incident, transaction, or set of facts as a charge in the unit is not a part of the unit.

14 (b) (1) If a person is not entitled to expungement of one charge in a unit, the
15 person is not entitled to expungement of any other charge in the unit.

16 (2) The disposition of a charge for a minor traffic violation that arises
17 from the same incident, transaction, or set of facts as a charge in the unit does not
18 affect any right to expungement of a charge in the unit.]

19 10-107.

20 THE RIGHT TO EXPUNGEMENT OF ONE CHARGE THAT ARISES FROM A
21 PARTICULAR INCIDENT, TRANSACTION, OR SET OF FACTS DOES NOT AFFECT ANY
22 RIGHT TO EXPUNGEMENT OF ANOTHER CHARGE ARISING OUT OF THE SAME
23 INCIDENT, TRANSACTION, OR SET OF FACTS.

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