

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 332
Judiciary

(Delegate Marriott, *et al.*)

Police and Court Records - Nuisance Crimes - Expungement

This bill permits a person convicted of a public nuisance crime to seek expungement of the associated criminal records. The petition may not be filed within three years after the conviction or satisfactory completion of the sentence, whichever is later.

Fiscal Summary

State Effect: The bill is likely to result in additional requests for expungement, but it is not anticipated to have a significant impact on State finances.

Local Effect: Minimal – see above.

Small Business Effect: None.

Analysis

Bill Summary: The crimes covered by this bill include any State or local law that prohibits:

- urination or defecation in a public place;
- panhandling or soliciting money;
- drinking an alcoholic beverage in a public place;
- disturbing the peace;
- disorderly conduct;
- obstructing the free passage of another in a public place or a public conveyance;
- trespass on posted property;

- wanton trespass on public property;
- sleeping on or in park structures such as benches or doorways;
- loitering;
- vagrancy; or
- riding a transit vehicle without paying the applicable fare.

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.

If two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge in a unit, the person is not entitled to expungement of any other charge in the unit.

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; and
- 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.

Background: Nuisance laws are frequently used to discourage the public presence and activities of destitute and homeless persons. Expungement will allow such individuals to escape the collateral consequences or civil disabilities of such convictions.

State Fiscal Impact: A petition for expungement costs \$30. The Department of Public Safety and Correctional Services has determined that it costs approximately \$41 to process each expungement. Costs in other jurisdictions vary.

While the potential number of individuals covered by this bill is large, it cannot be predicted with certainty how many will avail themselves of this opportunity. Moreover, crimes covered by this bill are frequently one of multiple charges arising out of the same incident, which cannot be expunged unless all the other charges in the unit also qualify

for expungement. The District Court would incur minimal expenses to reprint forms and brochures.

Additional Information

Prior Introductions: A similar bill, HB 367 of 2003, received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2004
mh/jr

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