

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 564
Judiciary

(Delegate Carter, *et al.*)

Criminal Procedure - Expungement - Other Charges

This bill repeals a provision that prohibits expungement of a police, court, or other record if: (1) the petition is based on the entry of probation before judgment, a *nolle prosequi*, or a stet, or the grant of a pardon; and (2) the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding. The bill also provides that 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: Potential significant increase in general fund revenues and expenditures if a substantial number of individuals choose to have covered records expunged.

Local Effect: Potential significant increase in expenditures if a substantial number of individuals choose to have covered records expunged. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: There are eight circumstances under which a person may petition for expungement. A person is not entitled to expungement if the petition is based on the entry of probation before judgment, a *nolle prosequi*, a stet, or the grant of a pardon by the Governor; and the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding.

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.

State Fiscal Effect: A petition for expungement filed with the courts costs \$30, which does not cover the total cost of the expungement. The Department of Public Safety and Correctional Services (DPSCS) has determined that the cost of an expungement for records in its files is approximately \$41. DPSCS does not charge petitioners for expungements. Costs in other State offices and local jurisdictions vary.

The District Court processed approximately 16,506 petitions for expungement in fiscal 2003, an increase of 1,500 over fiscal 2002. The bill could lead to a significant increase in the number of petitions, adding as it would those cases in which the petitioner had subsequently been convicted of a crime or is a defendant in a criminal proceeding, and individual charges contained in a unit. General fund revenues would increase by \$30 for each petition filed. Depending on the number of petitions, the increase could be fairly significant. For illustrative purposes only, for every additional 1,000 petitions, general fund revenues would increase by \$30,000.

The court anticipates an increase in costs in direct relation to the higher number of expungements. This would include an increase in clerical staff, as well as increased costs for printing new forms, postage for mailing petitions and orders, storage for expunged records, and copying. For illustrative purposes, one GS8 clerk position, including fringe benefits and operating costs, would cost approximately \$32,300 per year. There will also have to be two or more files maintained for those records that contain a unit that is sought to be expunged.

While the District Court does not maintain statistics on the number of “unit” cases, this number is thought to be substantial. The District Court advises that, as their computers are currently programmed, it is impossible to expunge one charge from a unit in criminal cases, because all charges on docket sheets and other items are integrated into a single record that cannot be modified. The District Court would thus have to maintain two or more sets of records (depending on how many charges in a unit were expunged at different times). DPSCS advises that, while they would not have to create additional sets of records, expunging single charges from a unit could be extremely burdensome because of the large number of records that are potentially involved.

Local Fiscal Effect: The circuit courts do not track the number of expungements, but, as with the District Court, this bill is expected to lead to a substantially higher number of petitions. Also, as with the District Court, circuit court computer systems are not set up to permit expungement of a single charge from a unit.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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mh/jr

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