
By: **Delegates Carter, Anderson, Branch, Cane, C. Davis, D. Davis, Gaines, Goodwin, Hammen, Haynes, Jones, Kaiser, Kelley, Kirk, Krysiak, Lee, Marriott, McIntosh, Menes, Murray, Nathan-Pulliam, Oaks, Paige, Patterson, Proctor, Ramirez, Rosenberg, Simmons, Taylor, F. Turner, Vallario, Vaughn, and Zirkin**

Introduced and read first time: February 11, 2005

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2005

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 a nolle prosequi, or a stet, or the grant of a pardon by the Governor
 8 for a certain charge involving child abuse or sexual abuse of a minor and, since
 9 the full or unconditional pardon or entry, the person has been convicted of a
 10 certain charge involving child abuse or sexual abuse of a minor; providing that a
 11 person is not entitled to expungement if the petition is based on the entry of a
 12 nolle prosequi, or a stet, or the grant of a pardon by the Governor for a certain
 13 crime of violence and, since the full or unconditional pardon or entry, the person
 14 has been convicted of a certain crime of violence; and generally relating to
 15 criminal procedure and expungement of records.

16 BY repealing and reenacting, with amendments,
 17 Article - Criminal Procedure
 18 Section 10-105(e)
 19 Annotated Code of Maryland
 20 (2001 Volume and 2004 Supplement)

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

1

Article - Criminal Procedure

2 10-105.

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

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

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

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

11 (i) the petition is based on the entry of probation before judgment,
12 ~~a nolle prosequi, or a stet including a nolle prosequi with the requirement of drug or~~
13 ~~alcohol treatment or a stet, with the requirement of drug or alcohol abuse treatment,~~
14 ~~or the grant of a pardon by the Governor; and~~

15 (ii) the person:

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

18 2. is a defendant in a pending criminal proceeding.}

19 (5) THE PERSON IS NOT ENTITLED TO EXPUNGEMENT IF:

20 (I) THE PETITION IS BASED ON THE ENTRY OF A NOLLE PROSEQUI,
21 OR A STET, OR THE GRANT OF A PARDON BY THE GOVERNOR FOR A CHARGE OF
22 CHILD ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE OR SEXUAL ABUSE OF
23 A MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE AND, SINCE THE FULL OR
24 UNCONDITIONAL PARDON OR ENTRY, THE PERSON HAS BEEN CONVICTED OF CHILD
25 ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE OR SEXUAL ABUSE OF A
26 MINOR UNDER § 3-602 OF THE CRIMINAL LAW ARTICLE;

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

33 (III) THE PETITION IS BASED ON THE ENTRY OF A NOLLE PROSEQUI,
34 OR A STET, INCLUDING A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR
35 ALCOHOL TREATMENT OR A STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL
36 ABUSE TREATMENT, OR THE GRANT OF A PARDON BY THE GOVERNOR, AND THE
37 PERSON IS A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2005.