
By: **Senators Stone, Brochin, Giannetti, Green, and Jimeno**

Introduced and read first time: January 21, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Offender Registration - Probation Before Judgment - Expungement**

3 FOR the purpose of providing that a person may not file a petition for expungement
4 of a police record, court record, or other record maintained by the State or a
5 political subdivision of the State during any time period in which the person is
6 registered or required to register on a certain offender registration; altering the
7 circumstances under which a person is considered convicted for purposes of
8 certain offender registration requirements; providing that a person is subject to
9 certain offender registration requirements if the person is granted a probation
10 before judgment, except under certain circumstances; establishing that a person
11 is not subject to certain offender registration requirements if the person is
12 granted a probation before judgment for a finding of guilt for certain sexual
13 offenses, except under certain circumstances; and generally relating to offender
14 registration and probation before judgment.

15 BY repealing and reenacting, with amendments,
16 Article - Criminal Procedure
17 Section 10-105(a) and 11-702
18 Annotated Code of Maryland
19 (2001 Volume and 2004 Supplement)

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

22 **Article - Criminal Procedure**

23 10-105.

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

29 (1) the person is acquitted;

1 (2) the charge is otherwise dismissed;

2 (3) a probation before judgment is entered, [unless] EXCEPT:

3 (I) IF the person is charged with a violation of § 21-902 of the
4 Transportation Article or Title 2, Subtitle 5 or § 3-211 of the Criminal Law Article; OR

5 (II) DURING ANY TIME PERIOD IN WHICH THE PERSON IS
6 REGISTERED OR REQUIRED TO BE REGISTERED UNDER TITLE 11, SUBTITLE 7 OF THIS
7 ARTICLE;

8 (4) a nolle prosequi or nolle prosequi with the requirement of drug or
9 alcohol treatment is entered;

10 (5) the court indefinitely postpones trial of a criminal charge by marking
11 the criminal charge "stet" or stet with the requirement of drug or alcohol abuse
12 treatment on the docket;

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

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

16 (8) the person:

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

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

20 11-702.

21 (A) For the purposes of this subtitle, a person is convicted when the person:

22 (1) is found guilty of a crime by a jury or judicial officer;

23 (2) enters a plea of guilty or nolo contendere;

24 (3) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, is
25 granted a probation before judgment after a finding of guilt for a crime [if the court,
26 as a condition of probation, orders compliance with the requirements of this subtitle];
27 or

28 (4) is found not criminally responsible for a crime.

29 (B) A PERSON IS NOT CONVICTED FOR PURPOSES OF THIS SUBTITLE IF THE
30 PERSON IS GRANTED PROBATION BEFORE JUDGMENT AFTER A FINDING OF GUILT
31 FOR A VIOLATION OF § 3-308(A)(2) OR (3) OF THE CRIMINAL LAW ARTICLE, UNLESS
32 THE COURT, AS A CONDITION OF PROBATION, ORDERS COMPLIANCE WITH THE
33 REQUIREMENTS OF THIS SUBTITLE.

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