

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1156

(Delegate Carter, *et al.*)

Judiciary

Judicial Proceedings

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Criminal Procedure - Expungement of Records

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This bill modifies a provision prohibiting the expungement of a police, court, or other record if the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding. The bill permits a person to seek expungement of a *nolle prosequi*, stet, or pardon, if the person has a subsequent conviction, unless the charge sought to be expunged and the subsequent conviction both involve either child abuse, sexual abuse of a minor, or a crime of violence.

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Fiscal Summary

**State Effect:** Potential significant increase in general fund revenues and expenditures, if the bill results in a substantial number of additional requests for expungement.

**Local Effect:** Potential increase in local revenues and expenditures, if the bill results in a substantial number of additional requests for expungement.

**Small Business Effect:** None.

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Analysis

**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.

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, if the person has subsequently been convicted of a crime or is a defendant in a criminal proceeding.

The State's Attorney is served with a copy of each petition for expungement. If the State's Attorney objects to the petition within 30 days, the court holds a hearing to determine whether the person is entitled to expungement.

A petition for expungement costs \$30, except for those cases with a verdict of acquittal. "Expungement" with regard to 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; or
- if access to a court record or police record can be obtained only by reference to another court record or police record, by the expungement of that record, or the part of it that provides access.

**Background:** Forty-one states currently allow the sealing or expungement of arrest records that do not result in convictions.

**State Expenditures:** The Department of Public Safety and Correctional Services (DPSCS) expungement unit currently processes approximately 16,000 expungements annually. DPSCS estimates that one person can process approximately 1,300 expungements per year. DPSCS estimates that for every 10% increase in workload one additional employee would be required, at a salary including fringe benefits of \$31,878.

The District Court cleared 221,602 criminal cases in fiscal 2004 and processed 17,374 petitions for expungement. While it cannot be predicted with certainty how many additional petitions for expungement would be filed as a result of this bill, *for illustrative purposes only*, if an additional 10,000 defendants sought expungements, general fund revenues would increase by \$300,000.

While a large number of people could be affected by this change, it cannot be predicted with certainty how many would avail themselves of this opportunity. The District Court would incur expenses for reprinting forms and instructions and could see an increased workload. Any costs associated with these items could be handled with existing resources.

**Local Fiscal Effect:** Local revenues could increase due to an increase in the number of petitions filed in the circuit court. The circuit courts cleared 71,297 criminal cases in fiscal 2004. As with the District Court, the number of additional expungements cannot be predicted with certainty. Revenue increases will vary by county, depending on the number of petitions filed in each.

Local expenditures could also increase due to an increase in requests for expungements. There are no statewide statistics on expungements kept at the circuit court level. In the Uniform Court System database system, which does not include all circuit courts, there were 253 petitions for expungement filed. In three counties, 916 petitions for expungement were filed: Montgomery County – 294; Prince George’s County – 299; and Baltimore City – 458.

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### **Additional Information**

**Prior Introductions:** A similar, HB 142 of 2004 passed the House of Delegates, but received an unfavorable report from the Judicial Proceedings Committee.

**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

**Fiscal Note History:** First Reader - March 4, 2005  
mp/jr Revised - House Third Reader - March 28, 2005

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