

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 607

(Delegate Marriott, *et al.*)

Judiciary

Judicial Proceedings

Police and Court Records - Nuisance Crimes - Expungement

This bill permits a person convicted of specified public nuisance crimes 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: Potential increase in Department of Public Safety and Correctional Services (DPSCS) expenditures. The actual effect depends on the number of expungements requested and granted by the court.

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;
- obstructing the free passage of another in a public place or a public conveyance;
- 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: The filing fee, paid directly to the court, for a petition for expungement is \$30.

DPSCS advises that there are approximately 80,000 individuals in the State who have one or more nuisance crimes on their records. While the number of individuals covered by this bill is large, it cannot be predicted with certainty how many will petition for expungement and how many expungements will be granted by the court. Moreover, crimes covered by this bill are frequently one of several charges arising out of the same incident, which cannot be expunged unless all the other charges in the unit also qualify for expungement. Based on this, the entitlement to file a petition for expungement will be limited.

DPSCS' expungement unit currently processes approximately 16,000 expungements per year. DPSCS estimates that one person can process approximately 1,300 expungements per year. *For illustrative purposes only*, if 2% of the persons covered under this bill are eligible for expungement, the expungement unit would experience a 10% increase in workload. DPSCS estimates that for every 10% increase in workload one additional employee would be required, at a salary (including fringe benefits at 14.8%) of \$31,878.

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

Additional Information

Prior Introductions: HB 332 of 2004, an identical bill, received an unfavorable report from the Judiciary Committee.

Cross File: None.

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

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Analysis by: Kineta A. Rotan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510