6lr1475 CF 6lr1476

### By: **Senator McFadden (By Request - Baltimore City Administration)** Introduced and read first time: January 24, 2006 Assigned to: Judicial Proceedings

## A BILL ENTITLED

1 AN ACT concerning

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## Baltimore City - Automatic Expungement of Records - Arrest Without Charge

4 FOR the purpose of requiring a law enforcement unit, the centralized booking facility

5 in Baltimore City, and the Central Repository in the Department of Public

6 Safety and Correctional Services to expunge within a certain time period the

7 police record of a person who is arrested, detained, or confined by a law

8 enforcement unit in Baltimore City for the suspected commission of a crime and

9 then is released from the centralized booking facility without being charged

10 with the commission of a crime; requiring a law enforcement unit to send certain

11 information to certain entities; requiring certain law enforcement units, the

12 centralized booking facility in Baltimore City, and the Central Repository to

13 send a certain notice; and generally relating to expungement of police records in

14 Baltimore City.

15 BY repealing and reenacting, with amendments,

16 Article - Criminal Procedure

- 17 Section 10-103
- 18 Annotated Code of Maryland
- 19 (2001 Volume and 2005 Supplement)

20 BY adding to

- 21 Article Criminal Procedure
- 22 Section 10-103.1
- 23 Annotated Code of Maryland
- 24 (2001 Volume and 2005 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

26 MARYLAND, That the Laws of Maryland read as follows:

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2	<b>UNOFFICIAL COPY OF SENATE BILL 244</b>
1	Article - Criminal Procedure
2 10-103.	
3 (A) 4 EXPUNGE	THIS SECTION DOES NOT APPLY TO A PERSON ENTITLED TO MENT UNDER § 10-103.1 OF THIS SUBTITLE.
	(B) A person who is arrested, detained, or confined by a law enforcement suspected commission of a crime and then is released without being h the commission of a crime may:
8 9 person belie	(1) give written notice of these facts to a law enforcement unit that the eves may have a police record about the matter; and
10	(2) request the expungement of the police record.
	(C) (1) Except as provided in paragraph (2) of this subsection, a person ve notice under this subtitle before the statute of limitations expires for all that arise from the incident.
	(2) (i) A person may give notice before the statute of limitations he person attaches to the notice a written general waiver and release, in of all tort claims that the person has arising from the incident.
17	(ii) The notice and waiver are not subject to expungement.
18 19 until any ap	(3) The law enforcement unit shall keep the notice and waiver at least oplicable statute of limitations expires.
20 21 incident.	(4) The person shall give the notice within 8 years after the date of the
22 [(c)] 23 promptly sl	(D) (1) On receipt of a timely filed notice, the law enforcement unit hall investigate and try to verify the facts stated in the notice.
24 25 enforcemen	(2) If the law enforcement unit finds the facts are true, the law at unit shall:
26 27 detention, o	(i) search diligently for each police record about the arrest, or confinement of the person;
28 29 confinemen	(ii) expunge each police record it has about the arrest, detention, or nt within 60 days after receipt of the notice; and
30 31 verification	(iii) send a copy of the notice and the law enforcement unit's n of the facts in the notice to:
32	1. the Central Repository;

3		UNOFFICIAL COPY OF SENATE BILL 244	
1 2 enforcement 3 confinement		2. each booking facility or law enforcement unit that the law eves may have a police record about the arrest, detention, or	
4		3. the person requesting expungement.	
		Within 30 days after receipt of the notice, the Central Repository, my other law enforcement unit shall search diligently for and rd about the arrest, detention, or confinement.	
		If the law enforcement unit to which the person has sent notice finds entitled to an expungement of the police record, the law hin 60 days after receipt of the notice, shall advise the person in	
12	(1)	the denial of the request for expungement; and	
13	(2)	the reasons for the denial.	
	ment in t	(1) (i) If a request by the person for expungement of a police record ction [(e)] (F) of this section, the person may apply for an order e District Court that has proper venue against the law	rd
18 19 written noti	ice of the	(ii) The person shall file the application within 30 days after the lenial is mailed or delivered to the person.	
20 21 hearing.	(2)	After notice to the law enforcement unit, the court shall hold a	
<ul><li>22</li><li>23 court shall of</li></ul>	(3) order the	If the court finds that the person is entitled to expungement, the aw enforcement unit to expunge the police record.	
24 25 the police r	(4) ecord, th	If the court finds that the person is not entitled to expungement of court shall deny the application.	
26	(5)	(i) The law enforcement unit is a party to the proceeding.	
<ul><li>27</li><li>28 the record,</li><li>29 Court.</li></ul>	as provid	(ii) Each party to the proceeding is entitled to appellate review on d in the Courts Article for appeals in civil cases from the District	
30 10-103.1.			
	THE SU	ON WHO IS ARRESTED, DETAINED, OR CONFINED IN BALTIMORE SPECTED COMMISSION OF A CRIME AND THEN IS RELEASED FROM	

33 THE CENTRALIZED BOOKING FACILITY WITHOUT BEING CHARGED WITH THE

34 COMMISSION OF A CRIME IS ENTITLED TO EXPUNGEMENT OF ALL POLICE RECORDS

35 RELATING TO THE MATTER.

# **UNOFFICIAL COPY OF SENATE BILL 244**

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(B) WITHIN 30 DAYS AFTER THE RELEASE OF A PERSON ENTITLED TO
 2 EXPUNGEMENT UNDER SUBSECTION (A) OF THIS SECTION, THE LAW ENFORCEMENT
 3 UNIT THAT ARRESTED, DETAINED, OR CONFINED THE PERSON SHALL:

4 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD IT 5 HAS ABOUT THE ARREST, DETENTION, OR CONFINEMENT OF THE PERSON; AND

6 (2) SEND A NOTICE OF EXPUNGEMENT AND ALL RELEVANT FACTS 7 ABOUT THE EXPUNGEMENT AND THE UNDERLYING ARREST, DETENTION, OR 8 CONFINEMENT TO:

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(I) THE CENTRAL REPOSITORY;

10(II)THE CENTRALIZED BOOKING FACILITY AND EACH LAW11ENFORCEMENT UNIT THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A12POLICE RECORD ABOUT THE ARREST, DETENTION, OR CONFINEMENT; AND

13 (III) THE PERSON ENTITLED TO EXPUNGEMENT.

14 (C) WITHIN 30 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL
15 REPOSITORY, THE CENTRALIZED BOOKING FACILITY IN BALTIMORE CITY, AND EACH
16 LAW ENFORCEMENT UNIT OR BOOKING FACILITY CONTACTED UNDER SUBSECTION
17 (B)(2) OF THIS SECTION SHALL:

18 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD IT 19 HAS ABOUT THE ARREST, DETENTION, OR CONFINEMENT OF THE PERSON ENTITLED 20 TO EXPUNGEMENT; AND

21 (2) SEND NOTICE IN WRITING OF COMPLETION OF THE EXPUNGEMENT 22 TO THE PERSON ENTITLED TO EXPUNGEMENT.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 24 October 1, 2006.