
By: **Senator Conway**

Introduced and read first time: February 8, 2006

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Criminal Procedure - Automatic Expungement of Records**

3 FOR the purpose of providing that a person who is arrested, detained, or confined in
4 Baltimore City for a suspected crime and then is released without being charged
5 is entitled to expungement of all police records relating to the matter; requiring
6 a law enforcement unit, the centralized booking facility in Baltimore City, and
7 the Central Repository in the Department of Public Safety and Correctional
8 Services to expunge within a certain time period the police record of a person
9 who is arrested, detained, or confined by a law enforcement unit in Baltimore
10 City for the suspected commission of a crime and then is released from the
11 centralized booking facility without being charged with the commission of a
12 crime; requiring a law enforcement unit to send certain information to certain
13 entities under certain circumstances; requiring certain law enforcement units,
14 the centralized booking facility in Baltimore City, and the Central Repository to
15 send a certain notice under certain circumstances; requiring the District Court
16 in Baltimore City to order expungement of certain records if the State enters a
17 nolle prosequi as to all charges under certain circumstances; and generally
18 relating to expungement of police records in Baltimore City.

19 BY repealing and reenacting, with amendments,
20 Article - Criminal Procedure
21 Section 10-103 and 10-104
22 Annotated Code of Maryland
23 (2001 Volume and 2005 Supplement)

24 BY adding to
25 Article - Criminal Procedure
26 Section 10-103.1
27 Annotated Code of Maryland
28 (2001 Volume and 2005 Supplement)

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

Article - Criminal Procedure

10-103.

(A) THIS SECTION DOES NOT APPLY TO A PERSON ENTITLED TO
EXPUNGEMENT UNDER § 10-103.1 OF THIS SUBTITLE.

(B) A person who is arrested, detained, or confined by a law enforcement
unit for the suspected commission of a crime and then is released without being
charged with the commission of a crime may:

(1) give written notice of these facts to a law enforcement unit that the
person believes may have a police record about the matter; and

(2) request the expungement of the police record.

(C) (1) Except as provided in paragraph (2) of this subsection, a person
may not give notice under this subtitle before the statute of limitations expires for all
tort claims that arise from the incident.

(2) (i) A person may give notice before the statute of limitations
expires if the person attaches to the notice a written general waiver and release, in
legal form, of all tort claims that the person has arising from the incident.

(ii) The notice and waiver are not subject to expungement.

(3) The law enforcement unit shall keep the notice and waiver at least
until any applicable statute of limitations expires.

(4) The person shall give the notice within 8 years after the date of the
incident.

(D) (1) On receipt of a timely filed notice, the law enforcement unit
promptly shall investigate and try to verify the facts stated in the notice.

(2) If the law enforcement unit finds the facts are true, the law
enforcement unit shall:

(i) search diligently for each police record about the arrest,
detention, or confinement of the person;

(ii) expunge each police record it has about the arrest, detention, or
confinement within 60 days after receipt of the notice; and

(iii) send a copy of the notice and the law enforcement unit's
verification of the facts in the notice to:

1. the Central Repository;

1 2. each booking facility or law enforcement unit that the law
2 enforcement unit believes may have a police record about the arrest, detention, or
3 confinement; and

4 3. the person requesting expungement.

5 [(d)] (E) Within 30 days after receipt of the notice, the Central Repository,
6 booking facility, and any other law enforcement unit shall search diligently for and
7 expunge a police record about the arrest, detention, or confinement.

8 [(e)] (F) If the law enforcement unit to which the person has sent notice finds
9 that the person is not entitled to an expungement of the police record, the law
10 enforcement unit, within 60 days after receipt of the notice, shall advise the person in
11 writing of:

12 (1) the denial of the request for expungement; and

13 (2) the reasons for the denial.

14 [(f)] (G) (1) (i) If a request by the person for expungement of a police
15 record is denied under subsection [(e)] (F) of this section, the person may apply for an
16 order of expungement in the District Court that has proper venue against the law
17 enforcement unit.

18 (ii) The person shall file the application within 30 days after the
19 written notice of the denial is mailed or delivered to the person.

20 (2) After notice to the law enforcement unit, the court shall hold a
21 hearing.

22 (3) If the court finds that the person is entitled to expungement, the
23 court shall order the law enforcement unit to expunge the police record.

24 (4) If the court finds that the person is not entitled to expungement of
25 the police record, the court shall deny the application.

26 (5) (i) The law enforcement unit is a party to the proceeding.

27 (ii) Each party to the proceeding is entitled to appellate review on
28 the record, as provided in the Courts Article for appeals in civil cases from the District
29 Court.

30 10-103.1.

31 (A) A PERSON WHO IS ARRESTED, DETAINED, OR CONFINED IN BALTIMORE
32 CITY FOR THE SUSPECTED 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.

1 (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:

9 (I) THE CENTRAL REPOSITORY;

10 (II) THE CENTRALIZED BOOKING FACILITY AND EACH LAW
11 ENFORCEMENT UNIT THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A
12 POLICE 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
19 RECORD IT HAS ABOUT THE ARREST, DETENTION, OR CONFINEMENT OF THE PERSON
20 ENTITLED TO EXPUNGEMENT; AND

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

23 10-104.

24 (a) Unless the State objects and shows cause why a record should not be
25 expunged, if the State enters a nolle prosequi as to all charges in a criminal case
26 within the jurisdiction of the District Court with which a defendant has not been
27 served, the District Court:

28 (1) SUBJECT TO ITEM (2) OF THIS SUBSECTION, may order expungement
29 of each court record, police record, or other record that the State or a political
30 subdivision of the State keeps as to the charges; AND

31 (2) IN BALTIMORE CITY, SHALL ORDER EXPUNGEMENT OF EACH COURT
32 RECORD, POLICE RECORD, OR OTHER RECORD THAT THE STATE OR A POLITICAL
33 SUBDIVISION OF THE STATE KEEPS AS TO THE CHARGES.

34 (b) The District Court may not assess any costs against a defendant for a
35 proceeding under subsection (a) of this section.

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