

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 278

(Chair, Judiciary Committee)

(By Request – Maryland Judicial Conference)

Judiciary

Judicial Proceedings

Expungement - Civil Offenses or Infractions

This bill provides that a person who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge, may file a petition for expungement under the same circumstances as someone charged with a crime.

The bill applies retroactively to individuals charged with civil offenses or infractions occurring on or before the bill's effective date.

Fiscal Summary

State Effect: Potentially significant increase in general fund expenditures to pay for more staff and equipment to process additional expungements. Because the number of additional expungements is unknown, the increase cannot be determined at this time. Revenues would increase as well from the District Court's \$30 expungement fee.

Local Effect: Minimal. All counties responding to a request for information about the bill advise that additional expungements could be accommodated with existing resources.

Small Business Effect: None.

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 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.

The District Court of Maryland generally requires individuals petitioning for expungement of court records to pay a \$30 filing fee.

State Expenditures: Several agencies advise that they would need more staff to process the additional expungements resulting from the bill. However, any increase in expenditures cannot be determined because these agencies do not maintain data on civil offenses or infractions.

District Court

The District Court processed 22,125 expungements in fiscal 2006. The court advises that this bill has the potential of doubling, if not more, the number of expungement requests, and estimates that additional expungement clerks will be required to meet this need.

Department of Public Safety and Correctional Services (DPSCS)

DPSCS processed 18,888 expungement requests in fiscal 2006 through the Criminal Justice Information System. DPSCS's expungement unit has 9.5 positions. The department advises that the increased requests generated by the bill would require additional staff.

Maryland State Police

The Maryland State Police advise that the additional expungement requests could be processed with existing resources.

Department of Natural Resources

The Department of Natural Resources advises that the additional expungement requests would require it to hire one additional office clerk, increasing expenditures by an estimated \$33,860 in fiscal 2008, accounting for the bill's October 1 effective date. Future year expenditures reflect annualization and inflation, ranging from \$42,269 in fiscal 2009 to \$49,935 in fiscal 2012.

Additional Information

Prior Introductions: None.

Cross File: SB 299 (Chair, Judicial Proceedings Committee) (By Request – Maryland Judicial Conference) – Judicial Proceedings.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Judiciary (Administrative Office of the Courts), Department of Natural Resources, Department of State Police, University System of Maryland, Department of Public Safety and Correctional Services, Department of Legislative Services

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