

SENATE BILL 695

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8lr2352
CF HB 685

By: **Senators Gladden, Frosh, and Muse**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2008

CHAPTER _____

1 AN ACT concerning

2 **Police and Court Records – Nuisance Crimes – Expungement**

3 FOR the purpose of authorizing a person convicted of a certain crime who completed
4 the sentence imposed for the conviction, including probation, to petition for the
5 expungement of certain records maintained by the State pertaining to the
6 conviction; prohibiting the petition from being filed during a certain time;
7 providing that a person is not entitled to an expungement under certain
8 circumstances; clarifying that a person who is not entitled to an expungement
9 for a certain conviction is not entitled to an expungement of any other
10 conviction; and generally relating to the expungement of police records, court
11 records, and other records maintained by the State.

12 BY renumbering

13 Article – Criminal Procedure

14 Section 10–105(c)(6)

15 to be Section 10–105(c)(7)

16 Annotated Code of Maryland

17 (2001 Volume and 2007 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Criminal Procedure

20 Section 10–105(a) and (e)(4) and 10–107(b)

21 Annotated Code of Maryland

22 (2001 Volume and 2007 Supplement)

23 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Criminal Procedure
Section 10–105(c)(6)
Annotated Code of Maryland
(2001 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 10–105(c)(6) of Article – Criminal Procedure of the Annotated Code of Maryland be renumbered to be Section(s) 10–105(c)(7).

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Criminal Procedure

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or 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 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 if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article; [or]

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;
OR

(9) THE PERSON WAS CONVICTED OF A CRIME UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS:

(I) URINATION OR DEFECATION IN A PUBLIC PLACE;

(II) PANHANDLING OR SOLICITING MONEY;

(III) DRINKING AN ALCOHOLIC BEVERAGE IN A PUBLIC PLACE;

(IV) OBSTRUCTING THE FREE PASSAGE OF ANOTHER IN A PUBLIC PLACE OR A PUBLIC CONVEYANCE;

~~**(V) WANTON TRESPASS ON PRIVATE PROPERTY;**~~

~~**(VI)**~~ **(V) SLEEPING ON OR IN PARK STRUCTURES, SUCH AS BENCHES OR DOORWAYS;**

~~**(VII)**~~ **(VI) LOITERING;**

~~**(VIII)**~~ **(VII) VAGRANCY; OR**

~~**(IX) (VIII) RIDING A TRANSIT VEHICLE WITHOUT PAYING THE APPLICABLE FARE OR EXHIBITING PROOF OF PAYMENT; OR ANY OF THE ACTS SPECIFIED IN § 7-705 OF THE TRANSPORTATION ARTICLE.**~~

(IX) EXCEPT FOR CARRYING OR POSSESSING AN EXPLOSIVE, ACID, CONCEALED WEAPON, OR OTHER DANGEROUS ARTICLE AS PROVIDED IN § 7-705(B)(6) OF THE TRANSPORTATION ARTICLE, ANY OF THE ACTS SPECIFIED IN § 7-705 OF THE TRANSPORTATION ARTICLE.

(c) (6) A PETITION FOR EXPUNGEMENT BASED ON THE CONVICTION OF A CRIME UNDER SUBSECTION (A)(9) OF THIS SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE CONVICTION OR SATISFACTORY COMPLETION OF THE SENTENCE, INCLUDING PROBATION, THAT WAS IMPOSED FOR THE CONVICTION, WHICHEVER IS LATER.

(e) (4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, [or] a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment, A CONVICTION FOR A CRIME SPECIFIED IN SUBSECTION (A)(9) OF THIS SECTION, or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon [or], entry, OR CONVICTION has been convicted of a crime other than a minor traffic violation; or

2. is a defendant in a pending criminal proceeding.

10–107.

(b) (1) If a person is not entitled to expungement of one charge OR CONVICTION in a unit, the person is not entitled to expungement of any other charge OR CONVICTION in the unit.

(2) The disposition of a charge for a minor traffic violation that arises from the same incident, transaction, or set of facts as a charge in the unit does not affect any right to expungement of a charge OR CONVICTION in the unit.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.