

SENATE BILL 935

D4

0lr3031
CF HB 1149

By: **Senators Zirkin and Stone**

Introduced and read first time: February 17, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Denial or Dismissal of Domestic Violence Petition – Expungement of Records**

3 FOR the purpose of authorizing a respondent in a certain domestic violence proceeding
4 to file a written request to expunge court records relating to the proceeding
5 under certain circumstances; providing that a certain request for expungement
6 may not be filed within a certain time except under certain circumstances;
7 requiring the court to schedule a hearing on a certain request; requiring the
8 court to provide a certain notice of a certain hearing; requiring the court to
9 order the expungement of all court records relating to the proceeding under
10 certain circumstances; providing a certain exception; requiring certain
11 custodians to notify the court and the respondent of compliance with the order;
12 authorizing access by certain persons to certain expunged records under certain
13 circumstances; defining certain terms; and generally relating to domestic
14 violence and the expungement of certain court records.

15 BY adding to
16 Article – Family Law
17 Section 4–512
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2009 Supplement)

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

22 **Article – Family Law**

23 **4–512.**

24 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
25 **MEANINGS INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) (I) “COURT RECORD” MEANS AN OFFICIAL RECORD OF A
2 COURT ABOUT A PROCEEDING THAT THE CLERK OF A COURT OR OTHER COURT
3 PERSONNEL KEEPS.

4 (II) “COURT RECORD” INCLUDES:

5 1. AN INDEX, A DOCKET ENTRY, A PETITION, A
6 MEMORANDUM, A TRANSCRIPTION OF PROCEEDINGS, AN ELECTRONIC
7 RECORDING, AN ORDER, AND A JUDGMENT; AND

8 2. ANY ELECTRONIC INFORMATION ABOUT A
9 PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY.

10 (3) “EXPUNGE” MEANS TO REMOVE INFORMATION FROM PUBLIC
11 INSPECTION IN ACCORDANCE WITH THIS SECTION.

12 (4) “EXPUNGEMENT” MEANS:

13 (I) WITH RESPECT TO A RECORD KEPT IN A COURTHOUSE,
14 REMOVAL TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE
15 A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS; AND

16 (II) WITH RESPECT TO ELECTRONIC INFORMATION ABOUT A
17 PROCEEDING ON THE WEBSITE MAINTAINED BY THE MARYLAND JUDICIARY,
18 REMOVAL OF THE INFORMATION FROM THE WEBSITE.

19 (B) IF A PETITION FILED UNDER THIS SUBTITLE IS DENIED OR
20 DISMISSED AT THE INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE
21 OF A PROCEEDING UNDER THIS SUBTITLE, THE RESPONDENT MAY FILE A
22 WRITTEN REQUEST TO EXPUNGE ALL COURT RECORDS RELATING TO THE
23 PROCEEDING.

24 (C) A REQUEST FOR EXPUNGEMENT UNDER THIS SECTION MAY NOT BE
25 FILED WITHIN 3 YEARS AFTER THE DENIAL OR DISMISSAL OF THE PETITION,
26 UNLESS THE RESPONDENT FILES WITH THE REQUEST A GENERAL WAIVER AND
27 RELEASE OF ALL THE RESPONDENT’S TORT CLAIMS RELATED TO THE
28 PROCEEDING UNDER THIS SUBTITLE.

29 (D) (1) ON THE FILING OF A REQUEST FOR EXPUNGEMENT UNDER
30 THIS SECTION, THE COURT SHALL SCHEDULE A HEARING ON THE REQUEST.

31 (2) THE COURT SHALL GIVE NOTICE OF THE HEARING TO THE
32 PETITIONER OR THE PETITIONER’S COUNSEL OF RECORD.

1 **(3) EXCEPT AS PROVIDED IN PARAGRAPHS (4) AND (5) OF THIS**
2 **SUBSECTION, AFTER THE HEARING, THE COURT SHALL ORDER THE**
3 **EXPUNGEMENT OF ALL COURT RECORDS RELATING TO THE PROCEEDING IF THE**
4 **COURT FINDS:**

5 **(I) THAT THE PETITION WAS DENIED OR DISMISSED AT THE**
6 **INTERIM, TEMPORARY, OR FINAL PROTECTIVE ORDER STAGE OF THE**
7 **PROCEEDING; AND**

8 **(II) THAT A FINAL PROTECTIVE ORDER HAS NOT BEEN**
9 **PREVIOUSLY ISSUED AGAINST THE RESPONDENT AND THAT THERE IS NO**
10 **INTERIM OR TEMPORARY PROTECTIVE ORDER PENDING AGAINST THE**
11 **RESPONDENT AT THE TIME OF THE HEARING.**

12 **(4) (I) IF THE PETITIONER APPEARS AT THE EXPUNGEMENT**
13 **HEARING AND OBJECTS TO THE EXPUNGEMENT, THE COURT MAY, FOR GOOD**
14 **CAUSE, DENY THE EXPUNGEMENT.**

15 **(II) THE COURT MAY NOT DENY AN EXPUNGEMENT IF THE**
16 **COURT FINDS THAT THE PRIVACY OF THE RESPONDENT OR THE DANGER OF**
17 **ADVERSE CONSEQUENCES TO THE RESPONDENT OUTWEIGH THE PUBLIC**
18 **INTEREST IN HAVING THE RECORD REMAIN PUBLIC.**

19 **(5) INFORMATION ABOUT THE PROCEEDING MAY NOT BE**
20 **REMOVED FROM THE DOMESTIC VIOLENCE CENTRAL REPOSITORY.**

21 **(E) (1) THIS SECTION DOES NOT PRECLUDE A LAW ENFORCEMENT**
22 **OFFICER, AN OFFICER OF THE COURT, OR A STATE'S ATTORNEY WITH A**
23 **LEGITIMATE PURPOSE FROM HAVING ACCESS TO AN EXPUNGED RECORD.**

24 **(2) (I) A PERSON NOT LISTED IN PARAGRAPH (1) OF THIS**
25 **SUBSECTION MAY FILE A MOTION FOR ACCESS TO A RECORD EXPUNGED UNDER**
26 **THIS SECTION.**

27 **(II) IF THE COURT FINDS THAT THE PERSON HAS A**
28 **LEGITIMATE REASON FOR ACCESS, THE COURT MAY GRANT THE PERSON**
29 **ACCESS TO THE EXPUNGED RECORD UNDER THE TERMS AND CONDITIONS THAT**
30 **THE COURT DETERMINES.**

31 **(III) IN RULING ON A MOTION UNDER THIS PARAGRAPH, THE**
32 **COURT SHALL BALANCE THE PERSON'S NEED FOR ACCESS TO THE RECORD**
33 **WITH THE RESPONDENT'S RIGHT TO PRIVACY AND THE POTENTIAL HARM AND**
34 **DANGER OF UNWARRANTED ADVERSE CONSEQUENCES TO THE RESPONDENT**
35 **THAT THE DISCLOSURE MAY CREATE.**

1 **(F) WITHIN 60 DAYS AFTER ENTRY OF AN ORDER UNDER SUBSECTION**
2 **(D)(3) OF THIS SECTION, EACH CUSTODIAN OF COURT RECORDS THAT ARE**
3 **SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE IN WRITING THE**
4 **COURT AND THE RESPONDENT OF COMPLIANCE WITH THE ORDER.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2010.