

HOUSE BILL 187

E2

2lr0391

By: **Delegates K. Kelly and Simmons**

Introduced and read first time: January 25, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Filing on Behalf of Deceased Person**

3 FOR the purpose of authorizing a person's attorney or personal representative to file a
4 certain petition for expungement on behalf of the person if the person died
5 before disposition of a certain charge by nolle prosequi or dismissal; providing
6 for the application of this Act; and generally relating to expungement of
7 criminal records.

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Procedure
10 Section 10–105(a)
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2011 Supplement)

13 BY adding to
14 Article – Criminal Procedure
15 Section 10–105(a–1)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2011 Supplement)

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

20 **Article – Criminal Procedure**

21 10–105.

22 (a) A person who has been charged with the commission of a crime, including
23 a violation of the Transportation Article for which a term of imprisonment may be
24 imposed, or who has been charged with a civil offense or infraction, except a juvenile
25 offense, as a substitute for a criminal charge may file a petition listing relevant facts

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 for expungement of a police record, court record, or other record maintained by the
2 State or a political subdivision of the State if:

3 (1) the person is acquitted;

4 (2) the charge is otherwise dismissed;

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

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

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

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

15 (7) the charge was transferred to the juvenile court under § 4–202 of
16 this article;

17 (8) the person:

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

20 (ii) is granted a full and unconditional pardon by the Governor;
21 or

22 (9) the person was convicted of a crime under any State or local law
23 that prohibits:

24 (i) urination or defecation in a public place;

25 (ii) panhandling or soliciting money;

26 (iii) drinking an alcoholic beverage in a public place;

27 (iv) obstructing the free passage of another in a public place or a
28 public conveyance;

29 (v) sleeping on or in park structures, such as benches or
30 doorways;

- 1 (vi) loitering;
- 2 (vii) vagrancy;
- 3 (viii) riding a transit vehicle without paying the applicable fare or
4 exhibiting proof of payment; or
- 5 (ix) except for carrying or possessing an explosive, acid,
6 concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the
7 Transportation Article, any of the acts specified in § 7–705 of the Transportation
8 Article.

9 **(A–1) A PERSON’S ATTORNEY OR PERSONAL REPRESENTATIVE MAY FILE**
10 **A PETITION, ON BEHALF OF THE PERSON, FOR EXPUNGEMENT UNDER THIS**
11 **SECTION IF THE PERSON DIED BEFORE DISPOSITION OF THE CHARGE BY NOLLE**
12 **PROSEQUI OR DISMISSAL.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
14 construed to apply retroactively and shall be applied to and interpreted to affect
15 charges filed against a person under the provisions of Section 1 of this Act before the
16 effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2012.