

# HOUSE BILL 187

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

Introduced and read first time: January 25, 2012

Assigned to: Judiciary

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Committee Report: Favorable

House action: Adopted

Read second time: February 14, 2012

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## CHAPTER \_\_\_\_\_

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**

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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.



1 10–105.

2 (a) A person who has been charged with the commission of a crime, including  
3 a violation of the Transportation Article for which a term of imprisonment may be  
4 imposed, or who has been charged with a civil offense or infraction, except a juvenile  
5 offense, as a substitute for a criminal charge may file a petition listing relevant facts  
6 for expungement of a police record, court record, or other record maintained by the  
7 State or a political subdivision of the State if:

8 (1) the person is acquitted;

9 (2) the charge is otherwise dismissed;

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

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

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

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

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

22 (8) the person:

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

25 (ii) is granted a full and unconditional pardon by the Governor;  
26 or

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

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

30 (ii) panhandling or soliciting money;

31 (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) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or

(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.

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.