

HOUSE BILL 282

E3

3lr1615
CF SB 229

By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: January 23, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2013

CHAPTER _____

1 AN ACT concerning

2 **Courts – Juveniles – Expungement of Records**

3 FOR the purpose of authorizing a person to file a certain petition for expungement of
4 certain juvenile records; ~~requiring the court to serve a certain petition on a~~
5 ~~certain State's Attorney;~~ authorizing the court to order the expungement of a
6 certain record under certain circumstances; requiring the court to consider
7 certain criteria in its consideration of a certain petition for expungement of
8 records; ~~authorizing and requiring the court to deny a certain petition for~~
9 ~~expungement under certain circumstances; requiring the court to order the~~
10 ~~expungement of certain records under certain circumstances; authorizing the~~
11 ~~court to hold a certain hearing under certain circumstances;~~ authorizing the
12 court to rule on a petition for expungement with or without a hearing; requiring
13 an order for expungement to require the expungement of certain records;
14 requiring the custodian of certain records to advise in writing certain persons
15 regarding compliance with a certain court order requiring expungement under
16 certain circumstances; ~~authorizing the filing of an appeal by certain persons~~
17 ~~under certain circumstances;~~ providing that this Act does not apply to certain
18 records; defining certain terms; and generally relating to juveniles and
19 expungement of records.

20 BY adding to

21 Article – Courts and Judicial Proceedings

22 Section 3–8A–27.1

23 Annotated Code of Maryland

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 (2006 Replacement Volume and 2012 Supplement)

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

4 **Article – Courts and Judicial Proceedings**

5 **3-8A-27.1.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “EXPUNGEMENT” ~~MEANS THE PHYSICAL DESTRUCTION OF A~~
9 ~~RECORD AND OBLITERATION OF A PERSON’S NAME FROM ANY OTHER OFFICIAL~~
10 ~~INDEX OR PUBLIC RECORD, OR BOTH~~ HAS THE MEANING STATED IN § 10-101 OF
11 THE CRIMINAL PROCEDURE ARTICLE.

12 (3) “JUVENILE DELINQUENCY RECORD” INCLUDES A COURT
13 RECORD, POLICE RECORD, AND STATE’S ATTORNEY’S RECORD.

14 (B) ~~(1)~~ A PERSON MAY FILE A PETITION FOR EXPUNGEMENT OF THE
15 PERSON’S JUVENILE DELINQUENCY RECORD IN THE COURT WHERE THE
16 DELINQUENCY PETITION WAS FILED.

17 ~~(2) THE COURT SHALL HAVE A COPY OF THE PETITION FOR~~
18 ~~EXPUNGEMENT SERVED ON THE STATE’S ATTORNEY.~~

19 (C) THE COURT MAY ORDER A JUVENILE DELINQUENCY RECORD
20 EXPUNGED IF:

21 (1) THE PERSON HAS ATTAINED THE AGE OF 18 YEARS AND AT
22 LEAST 2 YEARS HAVE ELAPSED SINCE THE LAST OFFICIAL ACTION IN THE
23 PERSON’S JUVENILE DELINQUENCY RECORD;

24 (2) THE PERSON HAS NOT SUBSEQUENTLY BEEN ADJUDICATED
25 DELINQUENT FOR OR CONVICTED OF ANY OFFENSE;

26 (3) NO DELINQUENCY PETITION OR CRIMINAL CHARGE IS
27 PENDING AGAINST THE PERSON;

28 (4) THE PERSON HAS NOT BEEN ADJUDICATED OF JUVENILE
29 DELINQUENCY RECORD DOES NOT CONCERN AN OFFENSE WHICH, IF
30 COMMITTED BY AN ADULT, WOULD CONSTITUTE A CRIME OF VIOLENCE AS
31 DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE; ~~AND~~

1 (5) THE PERSON HAS FULLY PAID ANY MONETARY RESTITUTION
2 ORDERED BY THE COURT IN THE DELINQUENCY PROCEEDING; AND

3 (6) THE STATE'S ATTORNEY CONSENTS IN WRITING TO THE
4 EXPUNGEMENT.

5 (D) THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE
6 PERSON, THE PERSON'S STABILITY IN THE COMMUNITY, AND THE SAFETY OF
7 THE PUBLIC IN ITS CONSIDERATION OF THE PETITION FOR EXPUNGEMENT.

8 (E) ~~(1) IF NO OBJECTION IS FILED, THE~~ THE COURT MAY GRANT
9 RULE ON THE PETITION WITH OR WITHOUT A HEARING.

10 ~~(2) IF THE COURT FINDS THAT A PETITION FAILS ON ITS FACE TO~~
11 ~~MEET THE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, THE~~
12 ~~COURT MAY DENY THE PETITION WITHOUT A HEARING.~~

13 ~~(3) (i) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS~~
14 ~~SUBSECTION, IF THE STATE'S ATTORNEY FILES AN OBJECTION TO THE~~
15 ~~PETITION WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE COURT SHALL~~
16 ~~HOLD A HEARING.~~

17 ~~(ii) THE COURT MAY HOLD A HEARING ON ITS OWN~~
18 ~~INITIATIVE.~~

19 ~~(iii) IF, AFTER A HEARING, THE COURT FINDS THAT THE~~
20 ~~PERSON IS ENTITLED TO EXPUNGEMENT, THE COURT SHALL ORDER THE~~
21 ~~EXPUNGEMENT OF ALL COURT RECORDS, POLICE RECORDS, AND STATE'S~~
22 ~~ATTORNEY RECORDS RELATING TO THE DELINQUENCY PROCEEDINGS.~~

23 ~~(iv) IF, AFTER A HEARING, THE COURT FINDS THAT THE~~
24 ~~PERSON IS NOT ENTITLED TO EXPUNGEMENT, THE COURT SHALL DENY THE~~
25 ~~PETITION.~~

26 ~~(F) THE PERSON WHO FILED THE PETITION FOR EXPUNGEMENT OR THE~~
27 ~~STATE'S ATTORNEY MAY APPEAL AN ORDER GRANTING OR DENYING THE~~
28 ~~PETITION.~~

29 ~~(G) (F) UNLESS AN ORDER IS STAYED PENDING AN APPEAL, EACH IF~~
30 THE COURT GRANTS A PETITION FOR EXPUNGEMENT UNDER THIS SECTION:

31 (1) THE ORDER SHALL REQUIRE THE EXPUNGEMENT OF ALL
32 COURT RECORDS, POLICE RECORDS, AND STATE'S ATTORNEY'S RECORDS
33 RELATING TO THE DELINQUENCY PROCEEDINGS; AND

1 **(2)** **EACH** CUSTODIAN OF ~~POLICE AND COURT~~ **JUVENILE**
 2 **DELINQUENCY** RECORDS SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL
 3 ADVISE, IN WRITING, THE COURT, AND THE PETITIONER, ~~AND ALL PARTIES TO~~
 4 ~~THE PETITION FOR EXPUNGEMENT PROCEEDING~~ OF COMPLIANCE WITH THE
 5 ORDER WITHIN **60** DAYS AFTER ENTRY OF THE ORDER.

6 ~~(H)~~ **(G)** **THIS SECTION DOES NOT APPLY TO RECORDS MAINTAINED**
 7 **UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 9 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.