

HOUSE BILL 854

E2

3lr2454
CF SB 479

By: **Delegates Dumais, Rosenberg, Valderrama, Valentino-Smith, and Waldstreicher**

Introduced and read first time: February 7, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Records – Not Criminally Responsible**

3 FOR the purpose of authorizing a certain person to file a petition for expungement of
4 certain records if the person was found not criminally responsible under any
5 State or local law that prohibits certain acts; specifying that a petition for
6 expungement based on a finding of not criminally responsible under this Act
7 may not be filed within a certain period of time; providing that a person is not
8 entitled to expungement if the petition is based on a finding of not criminally
9 responsible and the person, since the finding of not criminally responsible, has
10 been convicted of a certain crime or is a defendant in a pending criminal
11 proceeding; and generally relating to expungement of criminal records.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Procedure
14 Section 10–105(a), ~~(c)(7)~~, and ~~(e)(4)~~
15 Annotated Code of Maryland
16 (2008 Replacement Volume and 2012 Supplement)

17 BY adding
18 Article – Criminal Procedure
19 Section 10–105(c)(7)
20 Annotated Code of Maryland
21 (2008 Replacement Volume and 2012 Supplement)

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

3 **Article – Criminal Procedure**

4 10–105.

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

11 (1) the person is acquitted;

12 (2) the charge is otherwise dismissed;

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

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

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

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

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

25 (8) the person:

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

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

29 [or]

30 (9) the person was convicted of a crime **OR FOUND NOT CRIMINALLY**
31 **RESPONSIBLE** under any State or local law that prohibits:

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

- 1 (ii) panhandling or soliciting money;
- 2 (iii) drinking an alcoholic beverage in a public place;
- 3 (iv) obstructing the free passage of another in a public place or a
4 public conveyance;
- 5 (v) sleeping on or in park structures, such as benches or
6 doorways;
- 7 (vi) loitering;
- 8 (vii) vagrancy;
- 9 (viii) riding a transit vehicle without paying the applicable fare or
10 exhibiting proof of payment; or
- 11 (ix) except for carrying or possessing an explosive, acid,
12 concealed weapon, or other dangerous article as provided in § 7-705(b)(6) of the
13 Transportation Article, any of the acts specified in § 7-705 of the Transportation
14 Article; OR

15 **(10) THE PERSON WAS FOUND NOT CRIMINALLY RESPONSIBLE**
16 **UNDER ANY STATE OR LOCAL LAW THAT PROHIBITS MISDEMEANOR:**

- 17 **(I) ~~ASSAULT;~~**
- 18 **(II) ~~POSSESSION OF A CONTROLLED DANGEROUS~~**
19 **~~SUBSTANCE;~~**
- 20 **(III) ~~TRESPASS;~~**
- 21 **(IV) (II) DISTURBING THE PEACE; OR**
- 22 **(V) (III) TELEPHONE MISUSE.**

23 **(c) (7) A PETITION FOR EXPUNGEMENT BASED ON A FINDING OF NOT**
24 **CRIMINALLY RESPONSIBLE UNDER SUBSECTION (A)(9) OR (10) OF THIS**
25 **SECTION MAY NOT BE FILED WITHIN 3 YEARS AFTER THE FINDING OF NOT**
26 **CRIMINALLY RESPONSIBLE WAS MADE BY THE COURT.**

27 **[(7)](8) A court may grant a petition for expungement at any time**
28 **on a showing of good cause.**

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

2 (i) the petition is based on the entry of probation before
3 judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of
4 drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse
5 treatment, a conviction for a crime specified in subsection (a)(9) of this section, A
6 FINDING OF NOT CRIMINALLY RESPONSIBLE, or the grant of a pardon by the
7 Governor; and

8 (ii) the person:

9 1. since the full and unconditional pardon, entry,
10 FINDING OF NOT CRIMINALLY RESPONSIBLE, or conviction has been convicted of a
11 crime other than a minor traffic violation; or

12 2. is a defendant in a pending criminal proceeding.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.