

# SENATE BILL 1056

E2  
HB 1006/13 – JUD

4lr3222

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By: **Senators Raskin and Jones–Rodwell**  
Introduced and read first time: February 19, 2014  
Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Second Chance Act of 2014**

3 FOR the purpose of authorizing a person to petition the court to shield certain court  
4 records and police records relating to certain convictions at a certain time;  
5 providing that, if a certain person is convicted of a new crime during a certain  
6 time period, a certain original conviction is not eligible for shielding unless the  
7 new conviction becomes eligible for shielding; providing that a certain person is  
8 not entitled to shielding if the person is a defendant in a pending criminal  
9 proceeding; providing that, if a person is not entitled to shielding of one  
10 conviction in a certain unit, the person is not entitled to shielding of any other  
11 conviction in the unit; providing that a certain conviction is eligible for shielding  
12 at a certain time; requiring the court to have a copy of a certain petition served  
13 on the State's Attorney; requiring the court to hold a hearing and order the  
14 shielding of certain records under certain circumstances; requiring the court to  
15 deny a certain petition under certain circumstances; requiring the court to send  
16 a certain written notice to certain victims; prohibiting the Maryland Judiciary  
17 Case Search from in any way referring to the existence of specific records  
18 shielded in accordance with this Act; providing that a conviction that has been  
19 shielded in accordance with this Act may not be considered a conviction for  
20 certain purposes; prohibiting a person authorized to access a shielded record  
21 under this Act from disclosing any information from a shielded record to a  
22 person who is not authorized to access shielded records under this Act;  
23 prohibiting an employer from requiring a person who applies for employment to  
24 disclose certain shielded information at a certain time or discharging or refusing  
25 to hire a person solely because the person refused to disclose certain  
26 information, with a certain exception; prohibiting an educational institution  
27 from requiring a person who applies for admission to the institution to disclose  
28 certain shielded information at a certain time or expelling or refusing to admit a  
29 person solely because the person refused to disclose certain information;  
30 prohibiting a unit, an official, or an employee of the State or a political  
31 subdivision of the State from requiring a person who applies for a license,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 permit, registration, or government service to disclose certain shielded  
 2 information at a certain time or denying a person's application for a license,  
 3 permit, registration, or government service solely because the person refused to  
 4 disclose certain information; requiring a certain custodian to deny inspection of  
 5 criminal records and police records relating to the conviction of a crime that has  
 6 been shielded under this Act; providing that this Act does not apply to a certain  
 7 conviction; providing that a shielded record shall remain fully accessible by  
 8 certain persons; establishing penalties for a violation of a certain provision of  
 9 this Act; defining certain terms; and generally relating to the shielding of court  
 10 records and police records.

11 BY adding to  
 12 Article – Criminal Procedure  
 13 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3.  
 14 Shielding”  
 15 Annotated Code of Maryland  
 16 (2008 Replacement Volume and 2013 Supplement)

17 BY adding to  
 18 Article – State Government  
 19 Section 10–616(w)  
 20 Annotated Code of Maryland  
 21 (2009 Replacement Volume and 2013 Supplement)

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

24 **Article – Criminal Procedure**

25 **SUBTITLE 3. SHIELDING.**

26 **10–301.**

27 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
 28 **INDICATED.**

29 **(B) “COURT RECORD” HAS THE MEANING STATED IN § 10–101 OF THIS**  
 30 **TITLE.**

31 **(C) “CRIMINAL JUSTICE UNIT” HAS THE MEANING STATED IN § 10–201**  
 32 **OF THIS TITLE.**

33 **(D) “POLICE RECORD” HAS THE MEANING STATED IN § 10–101 OF THIS**  
 34 **TITLE.**

1           **(E) “SHIELD” MEANS TO RENDER A COURT RECORD AND POLICE**  
2 **RECORD RELATING TO A CONVICTION OF A CRIME INACCESSIBLE BY MEMBERS**  
3 **OF THE PUBLIC.**

4           **(F) “SHIELDABLE CONVICTION” MEANS A CONVICTION OF ONE OF THE**  
5 **FOLLOWING CRIMES:**

6                   **(1) DISORDERLY CONDUCT UNDER § 10-201(C)(2) OF THE**  
7 **CRIMINAL LAW ARTICLE;**

8                   **(2) DISTURBING THE PEACE UNDER § 10-201(C)(4) OF THE**  
9 **CRIMINAL LAW ARTICLE;**

10                   **(3) FAILURE TO OBEY A REASONABLE AND LAWFUL ORDER**  
11 **UNDER § 10-201(C)(3) OF THE CRIMINAL LAW ARTICLE;**

12                   **(4) MALICIOUS DESTRUCTION OF PROPERTY IN THE LESSER**  
13 **DEGREE UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;**

14                   **(5) TRESPASS ON POSTED PROPERTY UNDER § 6-402 OF THE**  
15 **CRIMINAL LAW ARTICLE;**

16                   **(6) MISDEMEANOR THEFT OF PROPERTY OR SERVICES UNDER §**  
17 **7-104(G)(2) OR (3) OF THE CRIMINAL LAW ARTICLE;**

18                   **(7) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS**  
19 **SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;**

20                   **(8) POSSESSING OR ADMINISTERING A NONCONTROLLED**  
21 **SUBSTANCE UNDER § 5-618(A) OF THE CRIMINAL LAW ARTICLE;**

22                   **(9) USE OF OR POSSESSION WITH INTENT TO USE DRUG**  
23 **PARAPHERNALIA UNDER § 5-619(C)(1) OF THE CRIMINAL LAW ARTICLE;**

24                   **(10) DRIVING WITHOUT A LICENSE UNDER § 16-101 OF THE**  
25 **TRANSPORTATION ARTICLE;**

26                   **(11) DRIVING WHILE PRIVILEGE IS CANCELED, SUSPENDED,**  
27 **REFUSED, OR REVOKED UNDER § 16-303(A), (B), (C), (D), (E), (F), OR (G) OF THE**  
28 **TRANSPORTATION ARTICLE;**

29                   **(12) DRIVING WHILE UNINSURED UNDER § 17-107 OF THE**  
30 **TRANSPORTATION ARTICLE; OR**

1           **(13) A PROSTITUTION OFFENSE UNDER § 11-306(A)(1) OF THE**  
2 **CRIMINAL LAW ARTICLE IF THE CONVICTION IS FOR PROSTITUTION AND NOT**  
3 **ASSIGNATION.**

4           **(G) “UNIT” MEANS TWO OR MORE CONVICTIONS THAT ARISE FROM THE**  
5 **SAME INCIDENT, TRANSACTION, OR SET OF FACTS.**

6 **10-302.**

7           **(A) THIS SUBTITLE DOES NOT APPLY TO A CONVICTION OF A**  
8 **DOMESTICALLY RELATED CRIME UNDER § 6-233 OF THIS ARTICLE.**

9           **(B) A SHIELDED RECORD SHALL REMAIN FULLY ACCESSIBLE BY:**

10           **(1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL**  
11 **JUSTICE PURPOSES;**

12           **(2) PROSPECTIVE EMPLOYERS WHO ARE SUBJECT TO A**  
13 **STATUTORY OR CONTRACTUAL REQUIREMENT TO INQUIRE INTO AN**  
14 **APPLICANT’S CRIMINAL BACKGROUND FOR PURPOSES OF CARRYING OUT THAT**  
15 **REQUIREMENT;**

16           **(3) FACILITIES THAT ARE AUTHORIZED TO INQUIRE INTO AN**  
17 **INDIVIDUAL’S CRIMINAL BACKGROUND UNDER § 5-561(B), (C), (D), (E), (F), OR**  
18 **(G) OF THE FAMILY LAW ARTICLE;**

19           **(4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD**  
20 **AND THAT PERSON’S ATTORNEY; AND**

21           **(5) HEALTH OCCUPATIONS BOARDS.**

22 **10-303.**

23           **(A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS**  
24 **SECTION, A PERSON MAY PETITION THE COURT TO SHIELD THE PERSON’S**  
25 **COURT AND POLICE RECORDS RELATING TO A SHIELDABLE CONVICTION NO**  
26 **EARLIER THAN 3 YEARS AFTER THE PERSON SATISFIES THE SENTENCE IMPOSED**  
27 **FOR THE CONVICTION, INCLUDING PAROLE, PROBATION, OR MANDATORY**  
28 **SUPERVISION.**

29           **(B) A CONVICTION FOR THEFT OF PROPERTY OR SERVICES WITH A**  
30 **VALUE OF LESS THAN \$1,000 UNDER § 7-104(G)(2) OF THE CRIMINAL LAW**  
31 **ARTICLE IS ELIGIBLE FOR SHIELDING NO EARLIER THAN 5 YEARS AFTER THE**

1 PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING  
2 PAROLE, PROBATION, OR MANDATORY SUPERVISION.

3 (C) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE  
4 APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OR (B) OF THIS  
5 SECTION, THE ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS  
6 THE NEW CONVICTION BECOMES ELIGIBLE FOR SHIELDING.

7 (2) A PERSON IS NOT ENTITLED TO SHIELDING IF THE PERSON IS  
8 A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

9 (D) IF A PERSON IS NOT ENTITLED TO SHIELDING OF ONE CONVICTION  
10 IN A UNIT, THE PERSON IS NOT ENTITLED TO SHIELDING OF ANY OTHER  
11 CONVICTION IN THE UNIT.

12 (E) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR  
13 SHIELDING SERVED ON THE STATE'S ATTORNEY.

14 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO  
15 THE PETITION FOR SHIELDING WITHIN 30 DAYS AFTER THE PETITION IS  
16 SERVED, THE COURT SHALL ORDER THE SHIELDING OF ALL POLICE RECORDS  
17 AND COURT RECORDS RELATING TO THE CONVICTION.

18 (F) (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO  
19 THE PETITION, THE COURT SHALL HOLD A HEARING.

20 (2) IF THE COURT, AT THE HEARING, FINDS THAT THE PERSON IS  
21 ENTITLED TO SHIELDING, THE COURT SHALL ORDER THE SHIELDING OF ALL  
22 POLICE RECORDS AND COURT RECORDS RELATING TO THE CONVICTION.

23 (3) IF THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO  
24 SHIELDING, THE COURT SHALL DENY THE PETITION.

25 (G) THE COURT SHALL SEND WRITTEN NOTICE OF THE PROPOSED  
26 ACTION TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS  
27 SEEKING SHIELDING AT THE ADDRESS LISTED IN THE COURT FILE ADVISING  
28 THE VICTIM OR VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION  
29 RELEVANT TO THE SHIELDING PETITION TO THE COURT.

30 10-304.

1           **THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER**  
2 **TO THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH**  
3 **THIS SUBTITLE.**

4 **10-305.**

5           **A CONVICTION THAT HAS BEEN SHIELDED UNDER THIS SUBTITLE MAY**  
6 **NOT BE CONSIDERED A CONVICTION FOR PURPOSES OF § 10-105(E)(4)(II)1 OF**  
7 **THIS TITLE.**

8 **10-306.**

9           **(A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §**  
10 **10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A**  
11 **SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS**  
12 **SHIELDED RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.**

13           **(B) (1) EXCEPT AS PROVIDED IN § 10-302(B)(2) OF THIS SUBTITLE,**  
14 **AN EMPLOYER MAY NOT:**

15                   **(I) REQUIRE A PERSON WHO APPLIES FOR EMPLOYMENT**  
16 **TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN**  
17 **APPLICATION, AN INTERVIEW, OR OTHERWISE; OR**

18                   **(II) DISCHARGE OR REFUSE TO HIRE A PERSON SOLELY**  
19 **BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL**  
20 **CHARGES THAT HAVE BEEN SHIELDED.**

21           **(2) AN EDUCATIONAL INSTITUTION MAY NOT:**

22                   **(I) REQUIRE A PERSON WHO APPLIES FOR ADMISSION TO**  
23 **THE INSTITUTION TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL**  
24 **CHARGES IN AN APPLICATION, AN INTERVIEW, OR OTHERWISE; OR**

25                   **(II) EXPEL OR REFUSE TO ADMIT A PERSON SOLELY**  
26 **BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL**  
27 **CHARGES THAT HAVE BEEN SHIELDED.**

28           **(3) A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A**  
29 **POLITICAL SUBDIVISION OF THE STATE MAY NOT:**

30                   **(I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,**  
31 **PERMIT, REGISTRATION, OR GOVERNMENT SERVICE TO DISCLOSE SHIELDED**

1 INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN INTERVIEW,  
2 OR OTHERWISE; OR

3 (II) DENY A PERSON'S APPLICATION FOR A LICENSE,  
4 PERMIT, REGISTRATION, OR GOVERNMENT SERVICE SOLELY BECAUSE THE  
5 PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL CHARGES  
6 THAT HAVE BEEN SHIELDED.

7 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
8 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO, FOR EACH VIOLATION, A  
9 FINE NOT EXCEEDING \$1,000.

10 Article – State Government

11 10–616.

12 (W) A CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS  
13 AND POLICE RECORDS RELATING TO THE CONVICTION OF A CRIME THAT HAVE  
14 BEEN SHIELDED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE  
15 ARTICLE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2014.