

SENATE BILL 1056

E2
HB 1006/13 – JUD

4lr3222

By: ~~Senators Raskin and Jones-Rodwell~~, Jones-Rodwell, Shank, and Muse

Introduced and read first time: February 19, 2014

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 27, 2014

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 24, 2014

CHAPTER _____

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~~ eligible for shielding if the person is a defendant in a pending
9 criminal proceeding; providing that, if a person is not ~~entitled to~~ eligible for
10 shielding of one conviction in a certain unit, the person is not ~~entitled to~~ eligible
11 for shielding of any other conviction in the unit; providing that a certain
12 conviction is eligible for shielding at a certain time; requiring the court to have
13 a copy of a certain petition served on the State's Attorney; authorizing the court
14 to order the shielding of certain records after taking certain objections or
15 information into consideration; requiring the court to hold a hearing ~~and order~~
16 ~~the shielding of certain records~~ under certain circumstances; ~~requiring~~
17 authorizing the court to deny a certain petition ~~under certain circumstances for~~
18 good cause; authorizing a court to grant only one shielding petition to a person
19 over the lifetime of the person; requiring the court to send a certain written
20 notice to certain victims; prohibiting the Maryland Judiciary Case Search from
21 in any way referring to the existence of specific records shielded in accordance
22 with this Act; providing that a conviction that has been shielded in accordance
23 with this Act may not be considered a conviction for certain purposes;
24 prohibiting a person authorized to access a shielded record under this Act from

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 disclosing any information from a shielded record to a person who is not
 2 authorized to access shielded records under this Act; prohibiting an employer
 3 from requiring a person who applies for employment to disclose certain shielded
 4 information at a certain time or discharging or refusing to hire a person solely
 5 because the person refused to disclose certain information, with a certain
 6 exception; prohibiting an educational institution from requiring a person who
 7 applies for admission to the institution to disclose certain shielded information
 8 at a certain time or expelling or refusing to admit a person solely because the
 9 person refused to disclose certain information; prohibiting a unit, an official, or
 10 an employee of the State or a political subdivision of the State from requiring a
 11 person who applies for a license, certificate, permit, registration, or government
 12 service to disclose certain shielded information at a certain time or denying a
 13 person's application for a license, certificate, permit, registration, or government
 14 service solely because the person refused to disclose certain information, with a
 15 certain exception; requiring a certain custodian to deny inspection of criminal
 16 records and police records relating to the conviction of a crime that has been
 17 shielded under this Act; providing that this Act does not apply to a certain
 18 conviction; providing that a shielded record shall remain fully accessible by
 19 certain persons; establishing penalties for a violation of a certain provision of
 20 this Act; defining certain terms; and generally relating to the shielding of court
 21 records and police records.

22 BY adding to
 23 Article – Criminal Procedure
 24 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3.
 25 Shielding”
 26 Annotated Code of Maryland
 27 (2008 Replacement Volume and 2013 Supplement)

28 ~~BY adding to~~
 29 ~~Article – State Government~~
 30 ~~Section 10–616(w)~~
 31 ~~Annotated Code of Maryland~~
 32 ~~(2009 Replacement Volume and 2013 Supplement)~~

33 BY adding to
 34 Article – General Provisions
 35 Section 4–326
 36 Annotated Code of Maryland
 37 (As enacted by Chapter (H.B. 270) of the Acts of the General Assembly of
 38 2014)

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

41 **Article – Criminal Procedure**

SUBTITLE 3. SHIELDING.

10-301.

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

(B) "COURT RECORD" HAS THE MEANING STATED IN § 10-101 OF THIS TITLE.

(C) "CRIMINAL JUSTICE UNIT" HAS THE MEANING STATED IN § 10-201 OF THIS TITLE.

(D) "POLICE RECORD" HAS THE MEANING STATED IN § 10-101 OF THIS TITLE.

(E) "SHIELD" MEANS TO RENDER A COURT RECORD AND POLICE RECORD RELATING TO A CONVICTION OF A CRIME INACCESSIBLE BY MEMBERS OF THE PUBLIC.

(F) "SHIELDABLE CONVICTION" MEANS A CONVICTION OF ONE OF THE FOLLOWING CRIMES:

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

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

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

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

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

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

~~(7)~~ (6) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;

1 ~~(8)~~ (7) POSSESSING OR ADMINISTERING A NONCONTROLLED
2 SUBSTANCE UNDER § 5-618(A) OF THE CRIMINAL LAW ARTICLE;

3 ~~(9)~~ (8) USE OF OR POSSESSION WITH INTENT TO USE DRUG
4 PARAPHERNALIA UNDER § 5-619(C)(1) OF THE CRIMINAL LAW ARTICLE;

5 ~~(10)~~ (9) DRIVING WITHOUT A LICENSE UNDER § 16-101 OF THE
6 TRANSPORTATION ARTICLE;

7 ~~(11)~~ (10) DRIVING WHILE PRIVILEGE IS CANCELED, SUSPENDED,
8 REFUSED, OR REVOKED UNDER § 16-303(A), (B), (C), (D), (E), (F), OR (G) OF THE
9 TRANSPORTATION ARTICLE;

10 ~~(12)~~ (11) DRIVING WHILE UNINSURED UNDER § 17-107 OF THE
11 TRANSPORTATION ARTICLE; OR

12 ~~(13)~~ (12) A PROSTITUTION OFFENSE UNDER § 11-306(A)(1) OF
13 THE CRIMINAL LAW ARTICLE IF THE CONVICTION IS FOR PROSTITUTION AND
14 NOT ASSIGNATION.

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

17 **10-302.**

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

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

21 (1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL
22 JUSTICE PURPOSES;

23 (2) PROSPECTIVE OR CURRENT EMPLOYERS WHO ARE SUBJECT
24 TO A STATUTORY OR CONTRACTUAL REQUIREMENT TO INQUIRE INTO ~~AN~~
25 ~~APPLICANT'S~~ THE CRIMINAL BACKGROUND OF AN APPLICANT OR EMPLOYEE
26 FOR PURPOSES OF CARRYING OUT THAT REQUIREMENT;

27 (3) FACILITIES THAT ARE AUTHORIZED TO INQUIRE INTO AN
28 INDIVIDUAL'S CRIMINAL BACKGROUND UNDER § 5-561(B), (C), (D), (E), (F), OR
29 (G) OF THE FAMILY LAW ARTICLE;

30 (4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD
31 AND THAT PERSON'S ATTORNEY; AND

1 (5) HEALTH OCCUPATIONS BOARDS.

2 10-303.

3 (A) EXCEPT AS PROVIDED IN ~~SUBSECTIONS (B) AND (C)~~ SUBSECTION (B)
4 OF THIS SECTION, A PERSON MAY PETITION THE COURT TO SHIELD THE
5 PERSON'S COURT AND POLICE RECORDS RELATING TO ~~A SHIELDABLE~~
6 ~~CONVICTION~~ ALL SHIELDABLE CONVICTIONS NO EARLIER THAN 3 YEARS AFTER
7 THE PERSON SATISFIES THE SENTENCE IMPOSED FOR ~~THE CONVICTION~~ ALL
8 CONVICTIONS, INCLUDING PAROLE, PROBATION, OR MANDATORY SUPERVISION.

9 ~~(B) A CONVICTION FOR THEFT OF PROPERTY OR SERVICES WITH A~~
10 ~~VALUE OF LESS THAN \$1,000 UNDER § 7-104(C)(2) OF THE CRIMINAL LAW~~
11 ~~ARTICLE IS ELIGIBLE FOR SHIELDING NO EARLIER THAN 5 YEARS AFTER THE~~
12 ~~PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING~~
13 ~~PAROLE, PROBATION, OR MANDATORY SUPERVISION.~~

14 ~~(C)~~ (B) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING
15 THE APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) ~~OR (B)~~ OF THIS
16 SECTION, THE ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS
17 THE NEW CONVICTION BECOMES ELIGIBLE FOR SHIELDING.

18 (2) A PERSON IS NOT ~~ENTITLED TO~~ ELIGIBLE FOR SHIELDING IF
19 THE PERSON IS A DEFENDANT IN A PENDING CRIMINAL PROCEEDING.

20 ~~(D)~~ (C) IF A PERSON IS NOT ~~ENTITLED TO~~ ELIGIBLE FOR SHIELDING
21 OF ONE CONVICTION IN A UNIT, THE PERSON IS NOT ~~ENTITLED TO~~ ELIGIBLE FOR
22 SHIELDING OF ANY OTHER CONVICTION IN THE UNIT.

23 ~~(E)~~ (D) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR
24 SHIELDING SERVED ON THE STATE'S ATTORNEY.

25 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO
26 THE PETITION FOR SHIELDING WITHIN 30 DAYS AFTER THE PETITION IS
27 SERVED, THE COURT ~~SHALL~~ MAY ORDER THE SHIELDING OF ALL POLICE
28 RECORDS AND COURT RECORDS RELATING TO THE CONVICTION AFTER TAKING
29 INTO CONSIDERATION ANY OBJECTIONS OR ADDITIONAL INFORMATION
30 PROVIDED BY THE STATE'S ATTORNEY OR THE VICTIM.

31 ~~(F)~~ (E) (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION
32 TO THE PETITION, THE COURT SHALL HOLD A HEARING.

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

4 ~~**(3) IF THE COURT FINDS THAT THE PERSON IS NOT ENTITLED TO**~~
5 ~~**SHIELDING, THE COURT SHALL DENY THE PETITION.**~~

6 **(3) THE COURT MAY DENY A PETITION UNDER THIS SUBSECTION**
7 **FOR GOOD CAUSE.**

8 **(4) A COURT MAY GRANT ONLY ONE SHIELDING PETITION TO A**
9 **PERSON OVER THE LIFETIME OF THE PERSON.**

10 ~~**(E)**~~ **(F)** **THE COURT SHALL SEND WRITTEN NOTICE OF THE PROPOSED**
11 **ACTION TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS**
12 **SEEKING SHIELDING AT THE ADDRESS LISTED IN THE COURT FILE ADVISING**
13 **THE VICTIM OR VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION**
14 **RELEVANT TO THE SHIELDING PETITION TO THE COURT.**

15 **10-304.**

16 **THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER**
17 **TO THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH**
18 **THIS SUBTITLE.**

19 **10-305.**

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

23 **10-306.**

24 **(A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §**
25 **10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A**
26 **SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS**
27 **SHIELDED RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.**

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

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

1 (II) DISCHARGE OR REFUSE TO HIRE A PERSON SOLELY
2 BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL
3 CHARGES THAT HAVE BEEN SHIELDED.

4 (2) AN EDUCATIONAL INSTITUTION MAY NOT:

5 (I) REQUIRE A PERSON WHO APPLIES FOR ADMISSION TO
6 THE INSTITUTION TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL
7 CHARGES IN AN APPLICATION, AN INTERVIEW, OR OTHERWISE; OR

8 (II) EXPEL OR REFUSE TO ADMIT A PERSON SOLELY
9 BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL
10 CHARGES THAT HAVE BEEN SHIELDED.

11 (3) ~~A~~ EXCEPT AS PROVIDED IN § 10-302(B)(2) OF THIS SUBTITLE,
12 A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A POLITICAL
13 SUBDIVISION OF THE STATE MAY NOT:

14 (I) REQUIRE A PERSON WHO APPLIES FOR A LICENSE,
15 CERTIFICATE, PERMIT, REGISTRATION, OR GOVERNMENT SERVICE TO DISCLOSE
16 SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN
17 INTERVIEW, OR OTHERWISE; OR

18 (II) DENY A PERSON'S APPLICATION FOR A LICENSE,
19 CERTIFICATE, PERMIT, REGISTRATION, OR GOVERNMENT SERVICE SOLELY
20 BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL
21 CHARGES THAT HAVE BEEN SHIELDED.

22 (C) A PERSON WHO VIOLATES THIS SECTION IS ~~GUILTY OF A~~
23 ~~MISDEMEANOR AND ON CONVICTION IS~~ SUBJECT TO, FOR EACH VIOLATION, A
24 ~~FINE~~ CIVIL PENALTY NOT EXCEEDING \$1,000.

25 Article - ~~State Government~~ General Provisions

26 ~~10-616~~ 4-326.

27 ~~(w)~~ A CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS
28 AND POLICE RECORDS RELATING TO THE CONVICTION OF A CRIME THAT HAVE
29 BEEN SHIELDED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE
30 ARTICLE.

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