

HB1166/538079/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 1166
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 4, strike “information” and substitute “court records and police records”; in the same line, strike “a certain conviction” and substitute “certain convictions”; strike beginning with “providing” in line 9 down through “time;” in line 10; in line 10, after “that” insert a comma; in line 11, after “a” insert “certain”; in line 12, after “unit;” insert “providing that a certain conviction is eligible for shielding at a certain time;”; in the same line, after “court” insert “to”; and in line 17, strike “under certain circumstances” and substitute “for good cause; authorizing a court to grant only one shielding petition to a person over the lifetime of the person”.

On page 2, in line 18, after “victims;” insert “prohibiting the Maryland Judiciary Case Search from in any way referring to the existence of specific records shielded in accordance with this Act; providing that a conviction that has been shielded in accordance with this Act may not be considered a conviction for certain purposes; prohibiting a person authorized to access a shielded record under this Act from disclosing any information from a shielded record to a person who is not authorized to access shielded records under this Act; prohibiting an employer from requiring a person who applies for employment to disclose certain shielded information at a certain time or discharging or refusing to hire a person solely because the person refused to disclose certain information, with a certain exception; prohibiting an educational institution from requiring a person who applies for admission to the institution to disclose certain shielded information at a certain time or expelling or refusing to admit a person solely because the person refused to disclose certain information; prohibiting a unit, an official, or an employee of the State or a political subdivision of the State from requiring a person who applies for a license, certificate, permit, registration, or government service to disclose certain shielded information at a certain time or denying a person’s application for a license, certificate, permit, registration, or government service solely because the person refused to disclose”.

(Over)

certain information, with a certain exception; requiring a certain custodian to deny inspection of criminal records and police records relating to the conviction of a crime that has been shielded under this Act;”; strike beginning with “clarifying” in line 20 down through “records” in line 24 and substitute “providing that a shielded record shall remain fully accessible by certain persons; establishing penalties for a violation of a certain provision of this Act”; in line 26, strike “convictions” and substitute “court records and police records”; in line 29, strike “10-303” and substitute “10-306”; and after line 37, insert:

“BY adding to

Article – General Provisions

Section 4-326

Annotated Code of Maryland

(As enacted by Chapter _____ (H.B. 270) of the Acts of the General Assembly of 2014)”.

AMENDMENT NO. 2

On page 3, after line 9, insert:

“(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.”;

in lines 10 and 15, strike “(B)” and “(C)”, respectively, and substitute “(E)” and “(F)”, respectively; strike beginning with “COMPLETELY” in line 11 down through “JUDICIARY” in line 14 and substitute “RENDER A COURT RECORD AND POLICE”

RECORD RELATING TO A CONVICTION OF A CRIME INACCESSIBLE BY MEMBERS OF THE PUBLIC"; in line 17, strike "§ 10-201" and substitute "§ 10-201(C)(2)"; in line 27, strike "(6)"; and strike in their entirety lines 29 and 30.

On page 4, in lines 1, 3, 5, 7, 9, 12, and 14, strike "(7)", "(8)", "(9)", "(10)", "(11)", "(12)", and "(13)", respectively, and substitute "(6)", "(7)", "(8)", "(9)", "(10)", "(11)", and "(12)", respectively; and in line 17, strike "(D)" and substitute "(G)".

On page 5, after line 4, insert:

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

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

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

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

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

(5) HEALTH OCCUPATIONS BOARDS.

10-303.";

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in lines 5, 16, 22, and 25, strike “(B)”, “(D)”, “(E)”, and “(F)”, respectively, and substitute “(A)”, “(B)”, “(C)”, and “(D)”, respectively; in line 5, strike “OTHERWISE”; in the same line, after “IN” insert “SUBSECTION (B) OF”; in lines 7 and 8, strike “A SHIELDABLE CONVICTION” and substitute “THE PERSON’S COURT AND POLICE RECORDS RELATING TO ALL SHIELDABLE CONVICTIONS”; in line 9, strike “THE CONVICTION” and substitute “ALL CONVICTIONS”; strike in their entirety lines 11 through 15, inclusive; in line 17, strike “(B) OR (C)” and substitute “(A)”; and in line 30, strike “A” and substitute “ALL POLICE RECORDS AND COURT RECORDS RELATING TO THE”.

On page 6, in lines 1 and 8, strike “(G)” and “(H)”, respectively, and substitute “(E)” and “(F)”, respectively; in line 4, strike “MAY” and substitute “SHALL”; in the same line, after “OF” insert “ALL POLICE RECORDS AND COURT RECORDS RELATING TO”; after line 7, insert:

“(4) A COURT MAY GRANT ONLY ONE SHIELDING PETITION TO A PERSON OVER THE LIFETIME OF THE PERSON.”;

in line 11, strike “TO THE COURT”; and in line 12, after “PETITION” insert “TO THE COURT”.

On pages 7 and 8, strike in their entirety the lines beginning with line 31 on page 7 through line 7 on page 8, inclusive, and substitute:

“10-304.

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

10-305.

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

10-306.

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

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

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

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

(2) AN EDUCATIONAL INSTITUTION MAY NOT:

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

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

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

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

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

(C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO, FOR EACH VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,000.

Article – General Provisions

4-326.

A CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS AND POLICE RECORDS RELATING TO THE CONVICTION OF A CRIME THAT HAVE BEEN SHIELDED UNDER TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE.”