

HOUSE BILL 904

E2

5lr1464

By: **Delegates Carter, Conaway, Glenn, Haynes, McCray, Oaks, and B. Robinson**
Introduced and read first time: February 13, 2015
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Court and Police Records – Acquittal or**
3 **Dismissal**

4 FOR the purpose of requiring the expungement of certain court and police records relating
5 to a certain criminal charge or civil offense or infraction under certain circumstances;
6 requiring a certain law enforcement unit to search for certain information and send
7 a certain notice; requiring the Criminal Justice Information System Central
8 Repository, a certain booking facility, and a certain law enforcement unit to search
9 for and expunge certain information and advise a certain person in a certain manner
10 under certain circumstances; prohibiting a certain police record from being expunged
11 in a certain manner for a certain period of time under certain circumstances;
12 requiring an expunged police record to be stored in a certain manner during a certain
13 time period; establishing a certain legitimate reason to access certain records during
14 a certain time period; authorizing a certain person to seek certain redress and
15 recover certain court costs under certain circumstances; prohibiting a certain person
16 from being charged a certain fee or costs in connection with a certain expungement;
17 providing that a certain charge is not a part of the same unit as another charge for
18 the purposes of an expungement; and generally relating to the expungement of a
19 court or police record.

20 BY adding to

21 Article – Criminal Procedure
22 Section 10–105.1
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2014 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Criminal Procedure
27 Section 10–107
28 Annotated Code of Maryland
29 (2008 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

4 **10–105.1.**

5 (A) FOR CHARGES OCCURRING ON OR AFTER OCTOBER 1, 2015, UNLESS
6 THE STATE OBJECTS AND SHOWS CAUSE WHY A RECORD SHOULD NOT BE
7 EXPUNGED, A PERSON WHO HAS BEEN CHARGED WITH THE COMMISSION OF A
8 CRIME, INCLUDING A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH A
9 TERM OF IMPRISONMENT MAY BE IMPOSED, OR WHO HAS BEEN CHARGED WITH A
10 CIVIL OFFENSE OR INFRACTION, EXCEPT A JUVENILE OFFENSE, AS A SUBSTITUTE
11 FOR A CRIMINAL CHARGE IS ENTITLED TO EXPUNGEMENT OF ALL COURT AND
12 POLICE RECORDS RELATING TO THE CHARGE IF:

13 (1) THE PERSON IS ACQUITTED; OR

14 (2) THE CHARGE IS OTHERWISE DISMISSED.

15 (B) WITHIN 60 DAYS AFTER AN ACQUITTAL OR DISMISSAL OF A CHARGE
16 AGAINST A PERSON ENTITLED TO EXPUNGEMENT UNDER SUBSECTION (A) OF THIS
17 SECTION, THE LAW ENFORCEMENT UNIT SHALL:

18 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD
19 RELATING TO THE CHARGE; AND

20 (2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT
21 FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING ARREST OR CONFINEMENT TO:

22 (I) THE CENTRAL REPOSITORY;

23 (II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT
24 THAT THE LAW ENFORCEMENT UNIT BELIEVES MAY HAVE A POLICE RECORD ABOUT
25 THE ARREST OR CONFINEMENT; AND

26 (III) THE PERSON ENTITLED TO EXPUNGEMENT.

27 (C) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL
28 REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT
29 SHALL:

1 **(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE RECORD**
2 **ABOUT THE CHARGE AGAINST THE PERSON; AND**

3 **(2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF**
4 **COMPLIANCE WITH THE ORDER.**

5 **(D) (1) A POLICE RECORD EXPUNGED UNDER THIS SECTION MAY NOT BE**
6 **EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DATE OF EXPUNGEMENT.**

7 **(2) DURING THE 3-YEAR PERIOD DESCRIBED IN PARAGRAPH (1) OF**
8 **THIS SUBSECTION, THE RECORDS SHALL BE REMOVED TO A SEPARATE SECURE AREA**
9 **TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE**
10 **DENIED ACCESS.**

11 **(3) FOR PURPOSES OF THIS SUBSECTION, A LEGITIMATE REASON FOR**
12 **ACCESSING THE RECORDS INCLUDES USING THE RECORDS FOR PURPOSES OF**
13 **PROCEEDINGS RELATING TO ANY OTHER CHARGES THAT ARISE FROM THE SAME**
14 **INCIDENT, TRANSACTION, OR SET OF FACTS.**

15 **(E) IF A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE CENTRAL**
16 **REPOSITORY FAILS TO EXPUNGE A POLICE RECORD AS REQUIRED UNDER**
17 **SUBSECTION (B) OR (C) OF THIS SECTION, THE PERSON ENTITLED TO EXPUNGEMENT**
18 **MAY:**

19 **(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY;**
20 **AND**

21 **(2) RECOVER COURT COSTS.**

22 **(F) A PERSON WHO IS ENTITLED TO EXPUNGEMENT UNDER THIS SECTION**
23 **MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION WITH THE**
24 **EXPUNGEMENT.**

25 10-107.

26 (a) (1) In this subtitle, if two or more charges, other than one for a minor traffic
27 violation, arise from the same incident, transaction, or set of facts, they are considered to
28 be a unit.

29 (2) A charge for a minor traffic violation that arises from the same incident,
30 transaction, or set of facts as a charge in the unit is not a part of the unit.

1 **(3) A CHARGE IN WHICH THE STATE ENTERS A NOLLE PROSEQUI**
2 **THAT ARISES FROM THE SAME INCIDENT, TRANSACTION, OR SET OF FACTS AS A**
3 **CHARGE IN THE UNIT IS NOT A PART OF THE UNIT.**

4 (b) (1) If a person is not entitled to expungement of one charge or conviction in
5 a unit, the person is not entitled to expungement of any other charge or conviction in the
6 unit.

7 (2) The disposition of a charge for a minor traffic violation that arises from
8 the same incident, transaction, or set of facts as a charge in the unit does not affect any
9 right to expungement of a charge or conviction in the unit.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2015.