

SENATE BILL 130

E2

5lr0565

By: **Senator Gladden**

Introduced and read first time: January 28, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Shielding – Misdemeanor Convictions**

3 FOR the purpose of authorizing a person to request that certain court records and police
4 records relating to a certain conviction be shielded at a certain time; providing that,
5 if a certain person is convicted of a new crime during a certain time period, a certain
6 original conviction is not eligible for shielding unless the new conviction becomes
7 eligible for shielding; requiring the Court of Appeals, by rule, to establish procedures
8 relating to the filing of a certain request for shielding; prohibiting the Maryland
9 Judiciary Case Search from in any way referring to the existence of specific records
10 shielded in accordance with this Act; prohibiting a person authorized to access a
11 shielded record under this Act from disclosing any information from a shielded record
12 to a person who is not authorized to access shielded records under this Act;
13 prohibiting an educational institution from requiring a person who applies for
14 admission to the institution to disclose certain shielded information at a certain time
15 or expelling or refusing to admit a person solely because the person refused to
16 disclose certain information; prohibiting a unit, an official, or an employee of the
17 State or a political subdivision of the State from requiring a person who applies for
18 a license, permit, registration, or governmental service to disclose certain shielded
19 information at a certain time or denying a person's application for a license, permit,
20 registration, or governmental service solely because the person refused to disclose
21 certain information; requiring a certain custodian to deny inspection of criminal
22 records and police records relating to the conviction of a crime that has been shielded
23 under this Act; providing that this Act does not apply to a conviction of a felony, any
24 misdemeanor requiring registration as a sex offender under certain provisions of law,
25 or a certain domestically related crime; providing that a shielded record shall remain
26 fully accessible by certain persons; defining certain terms; and generally relating to
27 the shielding of court records and police records.

28 BY adding to

29 Article – Criminal Procedure

30 Section 10–301 through 10–305 to be under the new subtitle “Subtitle 3. Shielding”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume and 2014 Supplement)

3 BY adding to
4 Article – General Provisions
5 Section 4–327
6 Annotated Code of Maryland
7 (2014 Volume)

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

10 **Article – Criminal Procedure**

11 **SUBTITLE 3. SHIELDING.**

12 **10–301.**

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

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

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

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

21 (E) “SHIELD” MEANS TO RENDER A COURT RECORD OR POLICE RECORD
22 INACCESSIBLE TO MEMBERS OF THE PUBLIC.

23 **10–302.**

24 (A) THIS SUBTITLE DOES NOT APPLY TO A CONVICTION OF:

25 (1) A FELONY;

26 (2) A MISDEMEANOR REQUIRING REGISTRATION AS A SEX OFFENDER
27 UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE; OR

28 (3) A DOMESTICALLY RELATED CRIME UNDER § 6–233 OF THIS
29 ARTICLE.

1 **(B) A SHIELDED RECORD SHALL REMAIN FULLY ACCESSIBLE TO:**

2 **(1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL JUSTICE**
3 **PURPOSES;**

4 **(2) PROSPECTIVE EMPLOYERS WHO ARE SUBJECT TO A STATUTORY**
5 **REQUIREMENT TO INQUIRE INTO AN APPLICANT'S CRIMINAL BACKGROUND FOR**
6 **PURPOSES OF CARRYING OUT THAT STATUTORY REQUIREMENT;**

7 **(3) FACILITIES THAT ARE REQUIRED TO INQUIRE INTO AN**
8 **EMPLOYEE'S OR EMPLOYER'S CRIMINAL BACKGROUND UNDER § 5-561 OF THE**
9 **FAMILY LAW ARTICLE; AND**

10 **(4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD OR**
11 **THAT PERSON'S ATTORNEY.**

12 **10-303.**

13 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON**
14 **MAY REQUEST THAT COURT RECORDS AND POLICE RECORDS RELATING TO A**
15 **CONVICTION OF THE PERSON BE SHIELDED NO EARLIER THAN 10 YEARS AFTER THE**
16 **PERSON SATISFIES THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING**
17 **PAROLE, PROBATION, OR MANDATORY SUPERVISION.**

18 **(B) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE**
19 **APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE**
20 **ORIGINAL CONVICTION IS NOT ELIGIBLE FOR SHIELDING UNLESS THE NEW**
21 **CONVICTION BECOMES ELIGIBLE FOR SHIELDING.**

22 **(C) THE COURT OF APPEALS, BY RULE, SHALL ESTABLISH PROCEDURES**
23 **RELATING TO THE FILING OF A REQUEST FOR SHIELDING IN ACCORDANCE WITH**
24 **THIS SUBTITLE.**

25 **10-304.**

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

29 **10-305.**

1 (A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §
2 10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A
3 SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS SHIELDED
4 RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.

5 (B) (1) AN EDUCATIONAL INSTITUTION MAY NOT:

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

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

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

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

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

23 **Article – General Provisions**

24 **4-327.**

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

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