

SENATE BILL 526

E2

5lr1288
CF HB 244

By: **Senators Raskin, Hough, Conway, Benson, Feldman, Ferguson, Gladden, Guzzone, Kasemeyer, King, Lee, Madaleno, Manno, McFadden, Middleton, Montgomery, Muse, Nathan-Pulliam, Peters, Pinsky, Pugh, Ramirez, Ready, Salling, and Young**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 11, 2015

CHAPTER _____

1 AN ACT concerning

2 **Maryland Second Chance Act of 2015**

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

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

20 BY adding to

21 Article – Criminal Procedure

22 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3. Shielding”

23 Annotated Code of Maryland

24 (2008 Replacement Volume and 2014 Supplement)

25 BY adding to

26 Article – General Provisions

27 Section 4–327

28 Annotated Code of Maryland

29 (2014 Volume)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

31 That the Laws of Maryland read as follows:

32 **Article – Criminal Procedure**

33 **SUBTITLE 3. SHIELDING.**

34 **10–301.**

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

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

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

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

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

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

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

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

14 (3) FAILURE TO OBEY A REASONABLE AND LAWFUL ORDER UNDER §
15 10-201(C)(3) OF THE CRIMINAL LAW ARTICLE;

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

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

20 ~~(6) MISDEMEANOR THEFT OF PROPERTY OR SERVICES UNDER §~~
21 ~~7-104(C)(2) OR (3) OF THE CRIMINAL LAW ARTICLE;~~

22 ~~(7)~~ (6) POSSESSING OR ADMINISTERING A CONTROLLED DANGEROUS
23 SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;

24 ~~(8)~~ (7) POSSESSING OR ADMINISTERING A NONCONTROLLED
25 SUBSTANCE UNDER § 5-618(A) OF THE CRIMINAL LAW ARTICLE;

26 ~~(9)~~ (8) USE OF OR POSSESSION WITH INTENT TO USE DRUG
27 PARAPHERNALIA UNDER § 5-619(C)(1) OF THE CRIMINAL LAW ARTICLE;

28 ~~(10)~~ (9) DRIVING WITHOUT A LICENSE UNDER § 16-101 OF THE
29 TRANSPORTATION ARTICLE;

1 ~~(11)~~ **(10)** DRIVING WHILE PRIVILEGE IS CANCELED, SUSPENDED,
2 REFUSED, OR REVOKED UNDER § 16-303(A), (B), (C), (D), (E), (F), OR (G) OF THE
3 TRANSPORTATION ARTICLE;

4 ~~(12)~~ **(11)** DRIVING WHILE UNINSURED UNDER § 17-107 OF THE
5 TRANSPORTATION ARTICLE; OR

6 ~~(13)~~ **(12)** A PROSTITUTION OFFENSE UNDER § 11-306(A)(1) OF THE
7 CRIMINAL LAW ARTICLE IF THE CONVICTION IS FOR PROSTITUTION AND NOT
8 ASSIGNATION.

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

11 **10-302.**

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

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

15 **(1)** CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL JUSTICE
16 PURPOSES;

17 **(2)** PROSPECTIVE OR CURRENT EMPLOYERS OR GOVERNMENT
18 LICENSING AGENCIES WHO ARE SUBJECT TO A STATUTORY OR ~~CONTRACTUAL~~
19 REGULATORY REQUIREMENT TO INQUIRE INTO THE CRIMINAL BACKGROUND OF AN
20 APPLICANT OR EMPLOYEE FOR PURPOSES OF CARRYING OUT THAT REQUIREMENT;

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

24 **(4)** THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD
25 AND THAT PERSON’S ATTORNEY; ~~AND~~

26 **(5)** HEALTH OCCUPATIONS BOARDS ESTABLISHED UNDER THE
27 HEALTH OCCUPATIONS ARTICLE;

28 **(6)** THE NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION
29 ESTABLISHED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH – GENERAL ARTICLE;

30 **(7)** ENTITIES THAT USE VOLUNTEERS WHO CARE FOR OR SUPERVISE
31 CHILDREN; AND

1 **(8) A PERSON RESPONSIBLE FOR ENFORCING OR ENSURING**
2 **COMPLIANCE WITH A STATUTORY OR REGULATORY REQUIREMENT DESCRIBED IN**
3 **ITEM (2) OF THIS SUBSECTION.**

4 **10-303.**

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

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

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

19 **(2) A PERSON IS NOT ELIGIBLE FOR SHIELDING IF THE PERSON IS A**
20 **DEFENDANT IN A PENDING CRIMINAL PROCEEDING.**

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

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

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

32 **~~(F)~~ (E) (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO**
33 **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 POLICE
3 RECORDS AND COURT RECORDS RELATING TO THE CONVICTION.

4 (3) THE COURT MAY ~~DENY~~ GRANT A PETITION UNDER THIS
5 SUBSECTION FOR GOOD CAUSE.

6 (4) A COURT MAY GRANT ONLY ONE SHIELDING PETITION TO A
7 PERSON OVER THE LIFETIME OF THE PERSON.

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

13 **10-304.**

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

17 **10-305.**

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

20 **10-306.**

21 (A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §
22 10-302(B) OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A
23 SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS SHIELDED
24 RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.

25 (B) (1) EXCEPT AS PROVIDED IN ~~§ 10-302(B)(2)~~ § 10-302(B)(2), (5), AND
26 (6) OF THIS SUBTITLE, AN EMPLOYER MAY NOT:

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

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

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

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

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

8 **(3) EXCEPT AS PROVIDED IN ~~§ 10-302(B)(2)~~ § 10-302(B)(2), (5), AND**
9 **(6) OF THIS SUBTITLE, A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A**
10 **POLITICAL SUBDIVISION OF THE STATE MAY NOT:**

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

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

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

21 **Article – General Provisions**

22 **4-327.**

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

26 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
27 **October 1, 2015.**