

HOUSE BILL 590

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6lr2816

By: **Delegates Vallario, Anderson, Atterbeary, Carter, Conaway, Dumais, Moon, Proctor, Rosenberg, Sanchez, Smith, Sydnor, and Valentino-Smith**

Introduced and read first time: February 3, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Probation Before Judgment**

3 FOR the purpose of repealing a provision of law denying a person entitlement to
4 expungement if the petition for expungement is based on the entry of probation
5 before judgment for a certain crime and the person, within a certain period of time
6 of the entry of the probation before judgment, has been convicted of a certain crime;
7 and generally relating to expungement.

8 BY repealing and reenacting, without amendments,

9 Article – Criminal Procedure

10 Section 10–105(a)

11 Annotated Code of Maryland

12 (2008 Replacement Volume and 2015 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Criminal Procedure

15 Section 10–105(e)

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2015 Supplement)

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

19 That the Laws of Maryland read as follows:

20 **Article – Criminal Procedure**

21 10–105.

22 (a) A person who has been charged with the commission of a crime, including a
23 violation of the Transportation Article for which a term of imprisonment may be imposed,
24 or who has been charged with a civil offense or infraction, except a juvenile offense, as a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 substitute for a criminal charge may file a petition listing relevant facts for expungement
2 of a police record, court record, or other record maintained by the State or a political
3 subdivision of the State if:

4 (1) the person is acquitted;

5 (2) the charge is otherwise dismissed;

6 (3) a probation before judgment is entered, unless the person is charged
7 with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211
8 of the Criminal Law Article;

9 (4) a nolle prosequi or nolle prosequi with the requirement of drug or
10 alcohol treatment is entered;

11 (5) the court indefinitely postpones trial of a criminal charge by marking
12 the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment
13 on the docket;

14 (6) the case is compromised under § 3–207 of the Criminal Law Article;

15 (7) the charge was transferred to the juvenile court under § 4–202 of this
16 article;

17 (8) the person:

18 (i) is convicted of only one criminal act, and that act is not a crime
19 of violence; and

20 (ii) is granted a full and unconditional pardon by the Governor;

21 (9) the person was convicted of a crime or found not criminally responsible
22 under any State or local law that prohibits:

23 (i) urination or defecation in a public place;

24 (ii) panhandling or soliciting money;

25 (iii) drinking an alcoholic beverage in a public place;

26 (iv) obstructing the free passage of another in a public place or a
27 public conveyance;

28 (v) sleeping on or in park structures, such as benches or doorways;

29 (vi) loitering;

1 (vii) vagrancy;

2 (viii) riding a transit vehicle without paying the applicable fare or
3 exhibiting proof of payment; or

4 (ix) except for carrying or possessing an explosive, acid, concealed
5 weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation
6 Article, any of the acts specified in § 7-705 of the Transportation Article;

7 (10) the person was found not criminally responsible under any State or
8 local law that prohibits misdemeanor:

9 (i) trespass;

10 (ii) disturbing the peace; or

11 (iii) telephone misuse; or

12 (11) the person was convicted of a crime and the act on which the conviction
13 was based is no longer a crime.

14 (e) (1) If the State's Attorney files a timely objection to the petition, the court
15 shall hold a hearing.

16 (2) If the court at the hearing finds that the person is entitled to
17 expungement, the court shall order the expungement of all police records and court records
18 about the charge.

19 (3) If the court finds that the person is not entitled to expungement, the
20 court shall deny the petition.

21 (4) The person is not entitled to expungement if[:

22 (i) the petition is based on the entry of probation before judgment,
23 except a probation before judgment for a crime where the act on which the conviction is
24 based is no longer a crime, and the person within 3 years of the entry of the probation before
25 judgment has been convicted of a crime other than a minor traffic violation or a crime where
26 the act on which the conviction is based is no longer a crime; or

27 (ii)] the person is a defendant in a pending criminal proceeding.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2016.