

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
Enrolled

House Bill 1017

(Chair, Judiciary Committee)(By Request - Departmental  
- Transportation)

Judiciary

Judicial Proceedings

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**Motor Vehicle Administration - Driving Records - Expungement**

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This departmental bill alters the standards and procedures related to the expungement of public driving records by the Motor Vehicle Administration (MVA) so that certain records, which currently require an application, are automatically expunged. However, the bill prohibits MVA from expunging certain driving records, including (1) entries required for assessment of subsequent offender penalties and (2) entries related to a moving violation or an accident that resulted in the death of another person.

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**Fiscal Summary**

**State Effect:** MVA realizes operational efficiencies; however, State expenditures and revenues are not materially affected as MVA advises that it can make the required programming changes to its automated expungement program with existing resources.

**Local Effect:** None.

**Small Business Effect:** The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** The bill removes the current prohibition against MVA expunging driving records of individuals who have charges pending for allegedly committing a moving violation or a criminal offense involving a motor vehicle.

In addition, the bill requires MVA to expunge the public driving record of a licensee in the following circumstances:

- if an individual's license has *never* been suspended for reasons related to driver safety (as defined by MVA) or revoked, and the licensee has not been convicted of a moving violation or a criminal offense involving a motor vehicle for the preceding three years;
- if an individual's license has been suspended *no more than once* for reasons related to driver safety (as defined by MVA), but never revoked, and the licensee has not been convicted of a moving violation or a criminal offense involving a motor vehicle for the preceding five years; or
- if the licensee has not been granted probation before judgment for specified violations (specifically, those related to remaining at the scene of an accident that results in death or bodily injury and driving while under the influence of, or impaired by, alcohol and/or drugs) and if the licensee has not been convicted of any moving violation or criminal offense involving a motor vehicle – regardless of the number of suspensions or revocations.

**Current Law:** A public driving record is expunged *on application* by a licensee if, at the time of application, the licensee does not have charges pending for allegedly committing a moving violation or a criminal offense involving a motor vehicle *and* meets one of the following conditions:

- the individual's license has never been suspended or revoked for any reason and the licensee's record shows no moving violation or criminal offense involving a motor vehicle for the preceding three years;
- the individual's license has been suspended but not more than once and never revoked, and the licensee's record shows no moving violation or criminal offense involving a motor vehicle for the preceding five years; or
- within the preceding 10 years, the licensee has not been convicted of or granted probation before judgment for a violation for failure to remain at the scene of an accident that results in death or bodily injury or driving under the influence of, or impaired by, alcohol and/or drugs in this State or any other jurisdiction and the licensee has not been convicted of any other moving violation or criminal offense involving a motor vehicle, regardless of the number of suspensions or revocations.

MVA must expunge from its driver record database the driving record of an individual or a probation before judgment disposition of an individual who meets all three of the following conditions:

- has not been convicted of a moving violation or criminal offense involving a motor vehicle for the preceding three years;
- has not been convicted of, or granted probation before judgment for, a violation for failure to remain at the scene of an accident that results in death or bodily injury; a violation for driving under the influence of, or impaired by, alcohol and/or drugs in this State; or a moving violation that is identical to or substantially similar to such violations; and
- has never had his or her license or privilege to drive suspended or revoked.

**Background:** MVA advises that most individuals are unaware that they have the right to have their driving records expunged and, therefore, never apply for expungement, which results in a large amount of unnecessary data collected by MVA on driving records. As a result, individuals seeking employment may not be hired for a position because driving records that are eligible to be expunged have not been. Further, MVA advises that automating the process is likely to make the expungement process more efficient.

To have a driving record expunged under current law, an individual whose license has been suspended only once must have had no moving violations for at least 10 years. MVA advises that, when assessing the number of suspensions and revocations an individual has on his or her record, *all* suspensions count, including those that are not related to driver safety offenses (for example, child support noncompliance, failure to appear in court, etc.).

MVA advises that the proposed changes disregard suspensions for offenses that are not related to driver safety, effectively expanding the number of records eligible for expungement. This change is consistent with recommendations from a working group of the American Association of Motor Vehicle Administrators on best practices related to reducing driver suspensions. The working group concluded that driver's license suspensions should be limited to those related to safety violations.

MVA notes, however, that certain driving record entries should remain on an individual's permanent record in order to improve highway safety. For example, there are progressively more stringent penalties associated with certain offenses (*e.g.*, alcohol- or drug-related driving offenses), which require an assessment of an individual's complete prior offenses record. Accordingly, those records (as well as any other records required to assess subsequent offender penalties) are maintained on the individual's confidential record, available only to MVA, the courts, and other governmental agencies. In addition, MVA

notes that the bill removes the prohibition against expunging the record of an individual who has charges pending, because MVA currently has no effective means by which to determine whether an individual has charges pending or not.

In fiscal 2016, MVA advises that it received 3,169 applications for expungement, of which only 694 (21.9%) were eligible for expungement.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of State Police; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2017  
md/ljm Third Reader - March 10, 2017  
Enrolled - May 15, 2017

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Motor Vehicle Administration – Driving Records - Expungement

BILL NUMBER: HB 1017

PREPARED BY: Maryland Department of Transportation / Motor Vehicle Administration  
(Dept./Agency)

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS