

# HOUSE BILL 1383

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CF 8lr3911

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By: **Delegates Mosby, Barron, Ali, Anderson, Angel, Conaway, Davis, Gibson, Jones, J. Lewis, McIntosh, Moon, Sanchez, Sydnor, and Turner**

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Expansion**  
3 **(Maryland Record Expungement Designed to Enhance Employment (REDEEM)**  
4 **Act of 2018)**

5 FOR the purpose of authorizing a person who is the subject of a certain warrant to file a  
6 certain petition for expungement; providing that a person who, on or after a certain  
7 date, has been charged with the commission of a certain crime, has been charged  
8 with a certain civil offense or infraction, or is the subject of a certain warrant, is  
9 entitled to automatic expungement of certain records under certain circumstances;  
10 specifying that certain dispositions are eligible for automatic expungement at certain  
11 times; requiring a certain court to search diligently for and expunge certain court  
12 records and send a certain notice to certain parties within a certain time period;  
13 requiring the Criminal Justice Information System Central Repository, a booking  
14 facility, and a certain law enforcement unit to search diligently for and expunge  
15 certain police and court records and send a certain advisement to a certain person  
16 within a certain time period; prohibiting a certain police or court record from being  
17 expunged by obliteration until a certain amount of time after a certain disposition;  
18 requiring that, during a certain time period, certain records be removed to a certain  
19 area; providing that a legitimate reason for accessing certain records includes using  
20 the records for certain purposes; authorizing a certain person to seek a certain  
21 redress and recover court costs under certain circumstances; prohibiting a certain  
22 person from being required to pay any fees or costs in connection with a certain  
23 expungement; requiring a certain judge to inform a certain defendant at a certain  
24 time that certain records will be automatically expunged under certain  
25 circumstances; authorizing a certain person to opt out of a certain automatic  
26 expungement in a certain manner; providing that opting out of a certain  
27 expungement does not bar expungement of certain charges; adding to a certain list  
28 of convictions that may be expunged under certain circumstances; altering a certain  
29 time period after which a person may file for a certain expungement; providing that  
30 a petition for expungement of a certain charge may not be filed earlier than a certain

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 number of years after the person satisfies a certain sentence or sentences; altering a  
2 certain definition; and generally relating to expungement.

3 BY repealing and reenacting, without amendments,  
4 Article – Criminal Procedure  
5 Section 10–101(a)  
6 Annotated Code of Maryland  
7 (2008 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article – Criminal Procedure  
10 Section 10–101(h), 10–105(a), and 10–110  
11 Annotated Code of Maryland  
12 (2008 Replacement Volume and 2017 Supplement)

13 BY adding to  
14 Article – Criminal Procedure  
15 Section 10–105.1  
16 Annotated Code of Maryland  
17 (2008 Replacement Volume and 2017 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 10–101.

22 (a) In this subtitle the following words have the meanings indicated.

23 (h) **(1)** “Police record” means an official record that a law enforcement unit,  
24 booking facility, or the Central Repository maintains about the arrest and detention of, or  
25 further proceeding against, a person for:

26 [(1)] **(I)** a criminal charge;

27 [(2)] **(II)** a suspected violation of a criminal law;

28 [(3)] **(III)** a violation of the Transportation Article for which a term of  
29 imprisonment may be imposed; or

30 [(4)] **(IV)** a civil offense or infraction, except a juvenile offense, enacted  
31 under State or local law as a substitute for a criminal charge.

32 **(2) “POLICE RECORD” INCLUDES AN ARREST WARRANT, AN**  
33 **INVALIDATED WARRANT, AND A FUGITIVE WARRANT.**

1 10–105.

2 (a) A person who has been charged with the commission of a crime, including a  
3 violation of the Transportation Article for which a term of imprisonment may be imposed,  
4 [or] who has been charged with a civil offense or infraction, except a juvenile offense, as a  
5 substitute for a criminal charge, **OR WHO IS THE SUBJECT OF AN INVALIDATED**  
6 **WARRANT OR A FUGITIVE WARRANT** may file a petition listing relevant facts for  
7 expungement of a police record, court record, or other record maintained by the State or a  
8 political subdivision of the State if:

9 (1) the person is acquitted;

10 (2) the charge **OR WARRANT** is otherwise dismissed **OR INVALIDATED**;

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

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

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

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

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

22 (8) the person:

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

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

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

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

29 (ii) panhandling or soliciting money;

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

- 1 (iv) obstructing the free passage of another in a public place or a  
2 public conveyance;
- 3 (v) sleeping on or in park structures, such as benches or doorways;
- 4 (vi) loitering;
- 5 (vii) vagrancy;
- 6 (viii) riding a transit vehicle without paying the applicable fare or  
7 exhibiting proof of payment; or
- 8 (ix) except for carrying or possessing an explosive, acid, concealed  
9 weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation  
10 Article, any of the acts specified in § 7–705 of the Transportation Article;
- 11 (10) the person was found not criminally responsible under any State or  
12 local law that prohibits misdemeanor:
- 13 (i) trespass;
- 14 (ii) disturbing the peace; or
- 15 (iii) telephone misuse;
- 16 (11) the person was convicted of a crime and the act on which the conviction  
17 was based is no longer a crime; or
- 18 (12) the person was convicted of possession of marijuana under § 5–601 of  
19 the Criminal Law Article.

20 **10–105.1.**

21 **(A) SUBJECT TO SUBSECTION (I) OF THIS SECTION, A PERSON WHO, ON OR**  
22 **AFTER OCTOBER 1, 2018, HAS BEEN CHARGED WITH THE COMMISSION OF A CRIME,**  
23 **INCLUDING A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH A TERM**  
24 **OF IMPRISONMENT MAY BE IMPOSED, WHO HAS BEEN CHARGED WITH A CIVIL**  
25 **OFFENSE OR INFRACTION, EXCEPT A JUVENILE OFFENSE, OR WHO IS THE SUBJECT**  
26 **OF AN INVALIDATED WARRANT OR A FUGITIVE WARRANT IS ENTITLED TO**  
27 **AUTOMATIC EXPUNGEMENT OF ALL POLICE RECORDS, COURT RECORDS, AND**  
28 **OTHER RECORDS MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE**  
29 **STATE RELATING TO THE MATTER IF:**

30 **(1) THE PERSON IS ACQUITTED;**

31 **(2) THE CHARGE OR WARRANT IS DISMISSED OR INVALIDATED;**

1           **(3) A PROBATION BEFORE JUDGMENT IS ENTERED, UNLESS THE**  
2 **PERSON IS CHARGED WITH A VIOLATION OF § 21-902 OF THE TRANSPORTATION**  
3 **ARTICLE OR TITLE 2, SUBTITLE 5 OR § 3-211 OF THE CRIMINAL LAW ARTICLE;**

4           **(4) A NOLLE PROSEQUI OTHER THAN A NOLLE PROSEQUI WITH THE**  
5 **REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS ENTERED; OR**

6           **(5) THE COURT INDEFINITELY POSTPONES TRIAL OF THE CHARGE BY**  
7 **MARKING THE CHARGE “STET” ON THE DOCKET, WITHOUT A REQUIREMENT OF**  
8 **DRUG OR ALCOHOL TREATMENT.**

9           **(B) (1) AN ACQUITTAL, A DISMISSAL, OR A NOLLE PROSEQUI OTHER THAN**  
10 **A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS**  
11 **ELIGIBLE FOR AUTOMATIC EXPUNGEMENT IMMEDIATELY ON DISPOSITION.**

12           **(2) A PROBATION BEFORE JUDGMENT IS ELIGIBLE FOR AUTOMATIC**  
13 **EXPUNGEMENT AFTER SATISFACTORY COMPLETION OF ANY SENTENCE AND**  
14 **PROBATIONARY CONDITIONS IMPOSED IN CONNECTION WITH THE PROBATION**  
15 **BEFORE JUDGMENT DISPOSITION.**

16           **(3) A STET OTHER THAN A STET WITH THE REQUIREMENT OF DRUG**  
17 **OR ALCOHOL TREATMENT IS ELIGIBLE FOR AUTOMATIC EXPUNGEMENT 3 YEARS**  
18 **AFTER THE ENTRY OF THE STET.**

19           **(C) WITHIN 60 DAYS AFTER THE ELIGIBILITY DATE SET FORTH IN**  
20 **SUBSECTION (B) OF THIS SECTION, THE COURT WITH JURISDICTION OVER THE**  
21 **MATTER SHALL:**

22           **(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH COURT RECORD**  
23 **ABOUT THE CHARGE; AND**

24           **(2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT**  
25 **FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING CHARGE TO:**

26                   **(I) THE CENTRAL REPOSITORY;**

27                   **(II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT**  
28 **THAT THE COURT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE ARREST,**  
29 **CONFINEMENT, OR CHARGE; AND**

30                   **(III) THE PERSON ENTITLED TO EXPUNGEMENT.**

1 (D) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL  
2 REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT  
3 SHALL:

4 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE AND  
5 COURT RECORD ABOUT THE ARREST, CONFINEMENT, OR CHARGING OF THE  
6 PERSON; AND

7 (2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF  
8 COMPLIANCE WITH THE ORDER.

9 (E) (1) A POLICE OR COURT RECORD EXPUNGED UNDER THIS SECTION  
10 MAY NOT BE EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DISPOSITION  
11 OF THE CHARGE.

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

16 (3) FOR PURPOSES OF THIS SUBSECTION, A LEGITIMATE REASON FOR  
17 ACCESSING THE RECORDS INCLUDES USING THE RECORDS FOR PURPOSES OF  
18 PROCEEDINGS RELATING TO THE ARREST OR CHARGE.

19 (F) IF A COURT, A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE  
20 CENTRAL REPOSITORY FAILS TO EXPUNGE A POLICE OR COURT RECORD AS  
21 REQUIRED UNDER SUBSECTION (C) OR (D) OF THIS SECTION, THE PERSON ENTITLED  
22 TO EXPUNGEMENT MAY:

23 (1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY;  
24 AND

25 (2) RECOVER COURT COSTS.

26 (G) A PERSON WHO IS ENTITLED TO AUTOMATIC EXPUNGEMENT UNDER  
27 THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION  
28 WITH THE EXPUNGEMENT.

29 (H) AT THE TIME OF MAKING A DISPOSITION DESCRIBED IN SUBSECTION (A)  
30 OF THIS SECTION, THE COURT SHALL INFORM THE DEFENDANT THAT ALL POLICE  
31 RECORDS, COURT RECORDS, AND OTHER RECORDS RELATING TO THE MATTER WILL  
32 BE AUTOMATICALLY EXPUNGED UNLESS THE DEFENDANT OPTS OUT OF THE  
33 EXPUNGEMENT.

1           **(I) (1) A PERSON WHO IS ENTITLED TO AUTOMATIC EXPUNGEMENT**  
2 **UNDER THIS SECTION MAY OPT OUT OF THE AUTOMATIC EXPUNGEMENT BY SO**  
3 **NOTIFYING THE COURT AT THE TIME OF DISPOSITION.**

4           **(2) OPTING OUT OF EXPUNGEMENT OF A PARTICULAR CHARGE DOES**  
5 **NOT BAR EXPUNGEMENT OF OTHER ELIGIBLE CHARGES.**

6 10–110.

7           (a) A person may file a petition listing relevant facts for expungement of a police  
8 record, court record, or other record maintained by the State or a political subdivision of  
9 the State if the person is convicted of:

10           **(1)** a misdemeanor that is a violation of:

11           **[(1)] (I)** § 6–320 of the Alcoholic Beverages Article;

12           **[(2)] (II)** an offense listed in § 17–613(a) of the Business Occupations and  
13 Professions Article;

14           **[(3)] (III)** § 5–712, § 19–304, § 19–308, or Title 5, Subtitle 6 or Subtitle 9 of  
15 the Business Regulation Article;

16           **[(4)] (IV)** § 3–1508 or § 10–402 of the Courts Article;

17           **[(5)] (V)** § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law  
18 Article;

19           **[(6)] (VI)** § 5–211 of this article;

20           **[(7)] (VII)** § 3–203 or § 3–808 of the Criminal Law Article;

21           **[(8)] (VIII)** § 5–601 not involving the use or possession of marijuana, §  
22 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law Article;

23           **[(9)] (IX)** § 6–105, § 6–108, § 6–206, § 6–303, § 6–306, § 6–307, §  
24 6–402, or § 6–503 of the Criminal Law Article;

25           **[(10)] (X)** § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the  
26 Criminal Law Article;

27           **[(11)] (XI)** § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, §  
28 8–408, § 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;

1 [(12)] (XII) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;

2 [(13)] (XIII) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the  
3 Criminal Law Article;

4 [(14)] (XIV) § 11–306(a) of the Criminal Law Article;

5 [(15)] (XV) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, §  
6 12–203, § 12–204, § 12–205, or § 12–302 of the Criminal Law Article;

7 [(16)] (XVI) § 13–401, § 13–602, or § 16–201 of the Election Law Article;

8 [(17)] (XVII) § 4–509 of the Family Law Article;

9 [(18)] (XVIII) § 18–215 of the Health – General Article;

10 [(19)] (XIX) § 4–411 or § 4–2005 of the Human Services Article;

11 [(20)] (XX) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, §  
12 27–407, § 27–407.1, or § 27–407.2 of the Insurance Article;

13 [(21)] (XXI) § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public  
14 Safety Article;

15 [(22)] (XXII) § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;

16 [(23)] (XXIII) § 9–124 of the State Government Article;

17 [(24)] (XXIV) § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the  
18 Tax – General Article;

19 [(25)] (XXV) the common law offenses of affray, rioting, criminal contempt,  
20 battery, or hindering; or

21 (XXVI) ANY OTHER STATUTORY OR COMMON LAW  
22 PROHIBITION THAT CARRIES A MAXIMUM PENALTY OF IMPRISONMENT OF 3 YEARS  
23 OR LESS;

24 (2) A FELONY OTHER THAN A CRIME OF VIOLENCE; OR

25 [(26)] (3) an attempt, a conspiracy, or a solicitation of any offense listed in  
26 [items] ITEM (1) [through (25)] OR (2) of this subsection.

27 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person  
28 shall file a petition for expungement in the court in which the proceeding began.

1           (2)   (i)    Except as provided in subparagraph (ii) of this paragraph, if the  
2 proceeding began in one court and was transferred to another court, the person shall file  
3 the petition in the court to which the proceeding was transferred.

4           (ii)   If the proceeding began in one court and was transferred to the  
5 juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in  
6 the court of original jurisdiction from which the order of transfer was entered.

7           (3)   (i)    If the proceeding in a court of original jurisdiction was appealed  
8 to a court exercising appellate jurisdiction, the person shall file the petition in the appellate  
9 court.

10           (ii)   The appellate court may remand the matter to the court of  
11 original jurisdiction.

12           (c)   (1)    Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)** of  
13 this subsection, a petition for expungement under this section may not be filed earlier than  
14 **[10] 3** years after the person satisfies the sentence or sentences imposed for all convictions  
15 for which expungement is requested, including parole, probation, or mandatory  
16 supervision.

17           (2)   A petition for expungement for a violation of § 3–203 of the Criminal  
18 Law Article, common law battery, or for an offense classified as a domestically related crime  
19 under § 6–233 of this article may not be filed earlier than 15 years after the person satisfies  
20 the sentence or sentences imposed for all convictions for which expungement is requested,  
21 including parole, probation, or mandatory supervision.

22           **(3)   A PETITION FOR EXPUNGEMENT OF A FELONY OTHER THAN A**  
23 **CRIME OF VIOLENCE MAY NOT BE FILED EARLIER THAN 5 YEARS AFTER THE PERSON**  
24 **SATISFIES THE SENTENCE OR SENTENCES IMPOSED FOR ALL CONVICTIONS FOR**  
25 **WHICH EXPUNGEMENT IS REQUESTED, INCLUDING PAROLE, PROBATION, OR**  
26 **MANDATORY SUPERVISION.**

27           (d)   (1)    If the person is convicted of a new crime during the applicable time  
28 period set forth in subsection (c) of this section, the original conviction or convictions are  
29 not eligible for expungement unless the new conviction becomes eligible for expungement.

30           (2)   A person is not eligible for expungement if the person is a defendant in  
31 a pending criminal proceeding.

32           (3)   If a person is not eligible for expungement of one conviction in a unit,  
33 the person is not eligible for expungement of any other conviction in the unit.

34           (e)   (1)    The court shall have a copy of a petition for expungement served on the  
35 State's Attorney.

1           (2)     The court shall send written notice of the expungement request to each  
2 listed victim in the case in which the petitioner is seeking expungement at the address  
3 listed in the court file, advising the victim of the right to offer additional information  
4 relevant to the expungement petition to the court.

5           (3)     Unless the State's Attorney or a victim files an objection to the petition  
6 for expungement within 30 days after the petition is served, the court shall pass an order  
7 requiring the expungement of all police records and court records about the charge.

8           (f)     (1)     If the State's Attorney or a victim files a timely objection to the petition,  
9 the court shall hold a hearing.

10           (2)     The court shall order the expungement of all police records and court  
11 records about the charge after a hearing, if the court finds and states on the record:

12                   (i)     that the conviction is eligible for expungement under subsection  
13 (a) of this section;

14                   (ii)    that the person is eligible for expungement under subsection (d)  
15 of this section;

16                   (iii)  that giving due regard to the nature of the crime, the history and  
17 character of the person, and the person's success at rehabilitation, the person is not a risk  
18 to public safety; and

19                   (iv)  that an expungement would be in the interest of justice.

20           (g)     If at a hearing the court finds that a person is not entitled to expungement,  
21 the court shall deny the petition.

22           (h)     Unless an order is stayed pending appeal, within 60 days after entry of the  
23 order, every custodian of the police records and court records that are subject to the order  
24 of expungement shall advise in writing the court and the person who is seeking  
25 expungement of compliance with the order.

26           (i)     (1)     The State's Attorney is a party to the proceeding.

27                   (2)     A party aggrieved by the decision of the court is entitled to the appellate  
28 review as provided in the Courts Article.

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2018.