

SENATE BILL 811

E2

0lr3378

By: **Senator Waldstreicher**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2020

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – ~~Automatic Expungement~~ Maryland Judiciary Case**
3 **Search – Case Blocking**

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

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 Case Search from in any way referring to the existence of certain records relating to
 2 certain cases; and generally relating to the Maryland Judiciary Case Search.

3 BY adding to

4 Article – Criminal Procedure

5 Section ~~10-105.1~~ 10-401 to be under the new subtitle “Subtitle 4. Maryland
 6 Judiciary Case Search Records”

7 Annotated Code of Maryland

8 (2018 Replacement Volume and 2019 Supplement)

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

11 **Article – Criminal Procedure**

12 ~~10-105.1.~~

13 ~~(A) SUBJECT TO SUBSECTION (I) OF THIS SECTION, A PERSON WHO, ON OR~~
 14 ~~AFTER OCTOBER 1, 2020, HAS BEEN CHARGED WITH THE COMMISSION OF A CRIME,~~
 15 ~~INCLUDING A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH A TERM~~
 16 ~~OF IMPRISONMENT MAY BE IMPOSED, WHO HAS BEEN CHARGED WITH A CIVIL~~
 17 ~~OFFENSE OR INFRACTION, EXCEPT A JUVENILE OFFENSE, OR WHO IS THE SUBJECT~~
 18 ~~OF AN INVALIDATED WARRANT OR A FUGITIVE WARRANT IS ENTITLED TO~~
 19 ~~AUTOMATIC EXPUNGEMENT OF ALL POLICE RECORDS, COURT RECORDS, AND~~
 20 ~~OTHER RECORDS MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE~~
 21 ~~STATE RELATING TO THE MATTER IF:~~

22 ~~(1) THE PERSON IS ACQUITTED;~~

23 ~~(2) THE CHARGE OR WARRANT IS DISMISSED OR INVALIDATED;~~

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

27 ~~(4) A NOLLE PROSEQUI OTHER THAN A NOLLE PROSEQUI WITH THE~~
 28 ~~REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS ENTERED; OR~~

29 ~~(5) THE COURT INDEFINITELY POSTPONES TRIAL OF THE CHARGE BY~~
 30 ~~MARKING THE CHARGE “STET” ON THE DOCKET, WITHOUT A REQUIREMENT OF~~
 31 ~~DRUG OR ALCOHOL TREATMENT.~~

32 ~~(B) (1) AN ACQUITTAL, A DISMISSAL, OR A NOLLE PROSEQUI OTHER THAN~~
 33 ~~A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS~~
 34 ~~ELIGIBLE FOR AUTOMATIC EXPUNGEMENT IMMEDIATELY ON DISPOSITION.~~

1 ~~(2) A PROBATION BEFORE JUDGMENT IS ELIGIBLE FOR AUTOMATIC~~
2 ~~EXPUNGEMENT AFTER SATISFACTORY COMPLETION OF ANY SENTENCE AND~~
3 ~~PROBATIONARY CONDITIONS IMPOSED IN CONNECTION WITH THE PROBATION~~
4 ~~BEFORE JUDGMENT DISPOSITION.~~

5 ~~(3) A STET OTHER THAN A STET WITH THE REQUIREMENT OF DRUG~~
6 ~~OR ALCOHOL TREATMENT IS ELIGIBLE FOR AUTOMATIC EXPUNGEMENT 3 YEARS~~
7 ~~AFTER THE ENTRY OF THE STET.~~

8 ~~(C) WITHIN 60 DAYS AFTER THE ELIGIBILITY DATE SET FORTH IN~~
9 ~~SUBSECTION (B) OF THIS SECTION, THE COURT WITH JURISDICTION OVER THE~~
10 ~~MATTER SHALL:~~

11 ~~(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH COURT RECORD~~
12 ~~ABOUT THE CHARGE; AND~~

13 ~~(2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT~~
14 ~~FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING CHARGE TO:~~

15 ~~(I) THE CENTRAL REPOSITORY;~~

16 ~~(II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT~~
17 ~~THAT THE COURT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE ARREST,~~
18 ~~CONFINEMENT, OR CHARGE; AND~~

19 ~~(III) THE PERSON ENTITLED TO EXPUNGEMENT.~~

20 ~~(D) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL~~
21 ~~REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT~~
22 ~~SHALL:~~

23 ~~(1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE AND~~
24 ~~COURT RECORD ABOUT THE ARREST, CONFINEMENT, OR CHARGING OF THE~~
25 ~~PERSON; AND~~

26 ~~(2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF~~
27 ~~COMPLIANCE WITH THE ORDER.~~

28 ~~(E) (1) A POLICE OR COURT RECORD EXPUNGED UNDER THIS SECTION~~
29 ~~MAY NOT BE EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DISPOSITION~~
30 ~~OF THE CHARGE.~~

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

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

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

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

~~(2) RECOVER COURT COSTS.~~

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

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

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

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

SUBTITLE 4. MARYLAND JUDICIARY CASE SEARCH RECORDS.

10-401.

THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER TO THE EXISTENCE OF RECORDS OF A CASE WITH ELECTRONIC RECORDS IF ALL CHARGES IN THE CASE RESULTED IN:

- 1 **(1) ACQUITTAL;**
- 2 **(2) DISMISSAL; OR**
- 3 **(3) NOLLE PROSEQUI OR NOLLE PROSEQUI WITH THE REQUIREMENT**
- 4 **OF DRUG OR ALCOHOL TREATMENT.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
6 apply retroactively and shall be applied to and interpreted to affect electronic records
7 created before and after October 1, 2020.

8 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.