

SENATE BILL 617

E2

11r2858
CF HB 754

By: **Senator Bailey**

Introduced and read first time: January 29, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Entitlement**

3 FOR the purpose of providing that a person is not entitled to expungement of certain
4 records if the court ordered the person to register as a certain sex offender in
5 connection with the disposition of a certain charge or the person has not satisfied an
6 obligation to pay court costs, fines, or restitution imposed by the court in connection
7 with the disposition of a certain charge; and generally relating to expungement of
8 police and court records.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Procedure
11 Section 10–105(a)
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Procedure
16 Section 10–105(e)
17 Annotated Code of Maryland
18 (2018 Replacement Volume and 2020 Supplement)

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

21 **Article – Criminal Procedure**

22 10–105.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (1) the person is acquitted;

4 (2) the charge is otherwise dismissed;

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

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

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

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

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

16 (8) the person:

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

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

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

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

23 (ii) panhandling or soliciting money;

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

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

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

28 (vi) loitering;

29 (vii) vagrancy;

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

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

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

8 (i) trespass;

9 (ii) disturbing the peace; or

10 (iii) telephone misuse;

11 (11) except as provided in subsection (a–1) of this section, the person was
12 convicted of a crime and the act on which the conviction was based is no longer a crime;

13 (12) the person was convicted of possession of marijuana under § 5–601 of
14 the Criminal Law Article; or

15 (13) the person was convicted of a crime and the conviction was vacated
16 under § 8–302 of this article.

17 (e) (1) If the State’s Attorney files a timely objection to the petition, the court
18 shall hold a hearing.

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

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

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

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

30 (ii) the person is a defendant in a pending criminal proceeding;

31 **(III) THE COURT ORDERED THE PERSON TO REGISTER AS A SEX**

1 OFFENDER UNDER TITLE 11, SUBTITLE 7 OF THIS ARTICLE IN CONNECTION WITH
2 THE DISPOSITION OF THE CHARGE ON WHICH THE PETITION IS BASED; OR

3 (IV) THE PERSON HAS NOT SATISFIED AN OBLIGATION TO PAY
4 COURT COSTS, FINES, OR RESTITUTION THAT THE COURT IMPOSED IN CONNECTION
5 WITH THE DISPOSITION OF THE CHARGE ON WHICH THE PETITION IS BASED.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2021.