

HOUSE BILL 957

E2

2lr2604

By: **Delegates Williams and Toles**

Introduced and read first time: February 10, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Felony Convictions**

3 FOR the purpose of authorizing a person to file a petition for expungement of a conviction
4 of first-degree assault under certain circumstances, armed robbery, and carjacking;
5 and generally relating to expungement.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section 10–110
9 Annotated Code of Maryland
10 (2018 Replacement Volume and 2021 Supplement)

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

13 **Article – Criminal Procedure**

14 10–110.

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

18 (1) a misdemeanor that is a violation of:

19 (i) § 6–320 of the Alcoholic Beverages Article;

20 (ii) an offense listed in § 17–613(a) of the Business Occupations and
21 Professions Article;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (iii) § 5-712, § 19-304, § 19-308, or Title 5, Subtitle 6 or Subtitle 9 of
2 the Business Regulation Article;
- 3 (iv) § 3-1508 or § 10-402 of the Courts Article;
- 4 (v) § 14-1915, § 14-2902, or § 14-2903 of the Commercial Law
5 Article;
- 6 (vi) § 5-211 of this article;
- 7 (vii) § 3-203 or § 3-808 of the Criminal Law Article;
- 8 (viii) § 5-601 not involving the use or possession of marijuana, §
9 5-618, § 5-619, § 5-620, § 5-703, § 5-708, or § 5-902 of the Criminal Law Article;
- 10 (ix) § 6-105, § 6-108, § 6-205 (fourth degree burglary), § 6-206, §
11 6-303, § 6-306, § 6-307, § 6-402, or § 6-503 of the Criminal Law Article;
- 12 (x) § 7-104, § 7-203, § 7-205, § 7-304, § 7-308, or § 7-309 of the
13 Criminal Law Article;
- 14 (xi) § 8-103, § 8-206, § 8-401, § 8-402, § 8-404, § 8-406, § 8-408, §
15 8-503, § 8-521, § 8-523, or § 8-904 of the Criminal Law Article;
- 16 (xii) § 9-204, § 9-205, § 9-503, or § 9-506 of the Criminal Law Article;
- 17 (xiii) § 10-110, § 10-201, § 10-402, § 10-404, or § 10-502 of the
18 Criminal Law Article;
- 19 (xiv) § 11-303, § 11-306, or § 11-307 of the Criminal Law Article;
- 20 (xv) § 12-102, § 12-103, § 12-104, § 12-105, § 12-109, § 12-203, §
21 12-204, § 12-205, or § 12-302 of the Criminal Law Article;
- 22 (xvi) § 13-401, § 13-602, or § 16-201 of the Election Law Article;
- 23 (xvii) § 4-509 of the Family Law Article;
- 24 (xviii) § 18-215 of the Health – General Article;
- 25 (xix) § 4-411 or § 4-2005 of the Housing and Community Development
26 Article;
- 27 (xx) § 27-403, § 27-404, § 27-405, § 27-406, § 27-406.1, § 27-407, §
28 27-407.1, or § 27-407.2 of the Insurance Article;

1 (xxi) § 8-725.4, § 8-725.5, § 8-725.6, § 8-725.7, § 8-726, § 8-726.1, §
2 8-727.1, or § 8-738.2 of the Natural Resources Article or any prohibited act related to speed
3 limits for personal watercraft;

4 (xxii) § 5-307, § 5-308, § 6-602, § 7-402, or § 14-114 of the Public
5 Safety Article;

6 (xxiii) § 7-318.1, § 7-509, or § 10-507 of the Real Property Article;

7 (xxiv) § 9-124 of the State Government Article;

8 (xxv) § 13-1001, § 13-1004, § 13-1007, or § 13-1024 of the Tax –
9 General Article;

10 (xxvi) § 16-303 of the Transportation Article; or

11 (xxvii) the common law offenses of affray, rioting, criminal contempt,
12 battery, or hindering;

13 (2) a felony that is a violation of:

14 (i) § 7-104 of the Criminal Law Article;

15 (ii) the prohibition against possession with intent to distribute a
16 controlled dangerous substance under § 5-602(2) of the Criminal Law Article; [or]

17 (iii) § 6-202(a), § 6-203, or § 6-204 of the Criminal Law Article;

18 **(IV) § 3-202 OF THE CRIMINAL LAW ARTICLE, IF THE CRIME DID**
19 **NOT INVOLVE DOMESTIC VIOLENCE AND THE PERSON HAS NO OTHER CONVICTIONS;**

20 **(V) § 3-403 OF THE CRIMINAL LAW ARTICLE; OR**

21 **(VI) § 3-405 OF THE CRIMINAL LAW ARTICLE; or**

22 (3) an attempt, a conspiracy, or a solicitation of any offense listed in item
23 (1) or (2) of this subsection.

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

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

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

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

7 (ii) The appellate court may remand the matter to the court of
8 original jurisdiction.

9 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
10 petition for expungement under this section may not be filed earlier than 10 years after the
11 person satisfies the sentence or sentences imposed for all convictions for which
12 expungement is requested, including parole, probation, or mandatory supervision.

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

18 (3) A petition for expungement of a felony may not be filed earlier than 15
19 years after the person satisfies the sentence or sentences imposed for all convictions for
20 which expungement is requested, including parole, probation, or mandatory supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2022.