

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1298
Judiciary

(Delegate Ghrist, *et al.*)

Judicial Proceedings

Criminal Procedure - Hunting Offenses - Expungement

This bill expands eligibility for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State under § 10-110 of the Criminal Procedure Article to include specified misdemeanor hunting offenses.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures for the Judiciary through FY 2025, as discussed below. The Department of Natural Resources (DNR) can implement the bill with existing budgeted resources. General fund revenues from filing fees increase minimally.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: The bill expands eligibility for an expungement under § 10-110 of the Criminal Procedure Article to include a conviction for any of the following misdemeanor hunting-related offenses under the Natural Resources Article:

- § 10-301 (hunting game birds or mammals without a hunting license);
- § 10-306 (duty to be in physical possession of a license while hunting and duty to present a license to law enforcement on demand while hunting);

- § 10-308.1 (hunting migratory game birds without a Maryland migratory game bird stamp, *etc.*);
- § 10-413(e)(1) (training a retriever dog using artificially reared game birds without a permit);
- § 10-418 (failure to wear fluorescent clothing while hunting);
- § 10-502 (trapping furbearers without a nonresident trapper’s license);
- § 10-611 (hunting wild waterfowl from a blind site without a license); and
- § 10-907(a) (engaging in specified activities without a falconry permit).

Current Law:

Petition-based Expungement of a Court or Police Record

Other than specified dispositions eligible for automatic expungement under Chapter 680 of 2021, to begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article, which establishes eligibility for the expungement of records pertaining to a criminal charge or conviction.

Expungement of a court or police record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; or
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge in the unit. This “unit rule” applies to expungements under §§ 10-105 and 10-110.

Section 10-110 of the Criminal Procedure Article

Section 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements.

In general, a petition to expunge a misdemeanor conviction under § 10-110 cannot be filed earlier than 10 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. A petition to expunge a conviction for second-degree assault, common law battery, a “domestically related crime,” or a felony may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. If the person is convicted of a new crime during the applicable waiting period, the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement.

A person is not eligible for expungement if the person is a defendant in a pending criminal proceeding. If a person is not eligible for expungement of one conviction in a unit, the person is not eligible for expungement of any other conviction in the unit.

Timeline for Expungement

Maryland’s expungement process for removing an eligible record takes a minimum of 90 days. If a State’s Attorney or victim, as applicable, objects, the court must hold a hearing on the petition. If an objection is not filed within 30 days, as specified, the court must pass an order requiring the expungement of all police and court records concerning the charges. After the court orders are sent to each required agency, each agency has 60 days from receipt to comply with the order.

State Revenues: General fund revenues increase minimally from filing fees for petitions for expungement. The courts charge a \$30 filing fee for a petition to expunge a guilty disposition (conviction), though fee waivers for financial hardship are available.

State Expenditures: Depending on the actual number of petitions filed under the bill, general fund expenditures may increase minimally for the Judiciary to process additional expungements in the initial years (through fiscal 2025) under the bill, when individuals with immediately eligible older hunting violations can file petitions for expungement.

The Judiciary advises that statistics are not available on violations of the applicable statutes, since Natural Resources violations are not charged with Criminal Justice Information System codes that allow for individual tracking. DNR did not provide offense-related statistics but advises that there are as many as 4,000 *hunting and fishing* violations each year. During fiscal 2019 (the most recent fiscal year not affected by the COVID-19 pandemic), 74,508 petitions for expungement were filed in the District Court.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 960 (Senator Bailey) - Judicial Proceedings.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland State Archives; Department of Legislative Services

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