

SENATE BILL 17

E2

3lr1007

(PRE-FILED)

By: **Senator Carter**

Requested: November 20, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Records – Good Cause**

3 FOR the purpose of authorizing a court to grant a petition for expungement of records
4 relating to a certain conviction at any time on a showing of good cause; and generally
5 relating to expungement of records.

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 2022 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 cannabis, §
9 5–602(b)(1), § 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law
10 Article;
- 11 (ix) § 6–105, § 6–108, § 6–205 (fourth degree burglary), § 6–206, §
12 6–303, § 6–306, § 6–307, § 6–402, or § 6–503 of the Criminal Law Article;
- 13 (x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the
14 Criminal Law Article;
- 15 (xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, §
16 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;
- 17 (xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;
- 18 (xiii) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the
19 Criminal Law Article;
- 20 (xiv) § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;
- 21 (xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, §
22 12–204, § 12–205, or § 12–302 of the Criminal Law Article;
- 23 (xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;
- 24 (xvii) § 4–509 of the Family Law Article;
- 25 (xviii) § 18–215 of the Health – General Article;
- 26 (xix) § 4–411 or § 4–2005 of the Housing and Community Development
27 Article;
- 28 (xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, §
29 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
9 Tax – 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 of the Criminal Law Article; or

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

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

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

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

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

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

31 (ii) The appellate court may remand the matter to the court of

1 original jurisdiction.

2 (c) (1) Except as **OTHERWISE** provided in [paragraphs (2), (3), and (4) of] this
3 subsection, a petition for expungement under this section may not be filed earlier than 10
4 years after the person satisfies the sentence or sentences imposed for all convictions for
5 which expungement is requested, including parole, probation, or mandatory supervision.

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

11 (3) Except as provided in [paragraph] **PARAGRAPHS (4) AND (5)** of this
12 subsection, a petition for expungement of a felony may not be filed earlier than 15 years
13 after the person satisfies the sentence or sentences imposed for all convictions for which
14 expungement is requested, including parole, probation, or mandatory supervision.

15 (4) A petition for expungement of a conviction of possession with intent to
16 distribute cannabis under § 5–602 of the Criminal Law Article may not be filed earlier than
17 3 years after the person satisfies the sentence or sentences imposed for all convictions for
18 which expungement is requested, including parole, probation, or mandatory supervision.

19 **(5) A COURT MAY GRANT A PETITION FOR EXPUNGEMENT UNDER**
20 **THIS SECTION AT ANY TIME ON A SHOWING OF GOOD CAUSE.**

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, 2023.