SENATE BILL 173

E2 (3lr1408)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by ~~Senator Waldstreicher~~ <u>Senators Waldstreicher and Muse</u>

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

President.

CHAPTER _____

1   AN ACT concerning

2   **Automatic Expungement – Clarification**

3   FOR the purpose of clarifying the language of ~~a provision~~ <u>*provisions*</u> of law requiring the
4   expungement of certain records maintained by the State or a political subdivision of
5   the State relating to the charging of certain offenses under certain circumstances
6   <u>*and notification of a certain right to expungement*</u>; and generally relating to
7   expungement.

8   BY repealing and reenacting, with amendments,
9   Article – Criminal Procedure
10   Section 10–105.1 <u>*and 10–105.2*</u>
11   Annotated Code of Maryland
12   (2018 Replacement Volume and 2022 Supplement)

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
    [Brackets] indicate matter deleted from existing law.
    <u>Underlining</u> indicates amendments to bill.
    ~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by
    amendment.
    Italics indicate opposite chamber/conference committee amendments.

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

3   **Article – Criminal Procedure**

4 10–105.1.

5   (a)   Beginning October 1, 2021, any police record, court record, or other record
6 maintained by the State or a political subdivision of the State relating to the charging of a
7 [crime or a] civil offense under § 5–601(c)(2)(ii) of the Criminal Law Article[, including a
8 must–appear violation of the Transportation Article,] **OR A CRIME OTHER THAN A**
9 **VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH THE DEFENDANT IS NOT**
10 **REQUIRED TO APPEAR** shall be expunged 3 years after a disposition of the charge if no
11 charge in the case resulted in a disposition other than:

12   (1)   acquittal;

13   (2)   dismissal;

14   (3)   not guilty; or

15   (4)   nolle prosequi, except nolle prosequi with a requirement of drug or
16 alcohol treatment.

17   (b)   For a case described in subsection (a) of this section, the court shall send notice
18 of the disposition of each charge in the case and the date on which expungement is required
19 to:

20   (1)   the Central Repository;

21   (2)   each booking facility, law enforcement unit, and other unit of the State
22 and political subdivision of the State that the court believes may have a record subject to
23 expungement under this section; and

24   (3)   the person entitled to expungement.

25 *10–105.2.*

26   *(a)   Subject to subsection (b) of this section, after disposition of all charges in a case*
27 *involving a [criminal offense or a] civil offense under § 5–601(c)(2)(ii) of the Criminal Law*
28 *Article[, including a must–appear violation of the Transportation Article,] OR A CRIME*
29 ***OTHER THAN A VIOLATION OF THE TRANSPORTATION ARTICLE FOR WHICH THE***
30 ***DEFENDANT IS NOT REQUIRED TO APPEAR,** the court shall notify the defendant of the*
31 *defendant's right to expungement under § 10–105 of this subtitle if no charge in the case*
32 *resulted in a disposition other than:*

1   *(1)*   *acquittal;*

2   *(2)*   *dismissal;*

3   *(3)*   *not guilty; or*

4   *(4)*   *nolle prosequi, except nolle prosequi with a requirement of drug or*
5 *alcohol treatment.*

6   *(b)*   *(1)*   *If the defendant is not present in court for the disposition, the court shall*
7 *notify the defendant by mail.*

8   *(2)*   *The notice provided under this section shall include a written form for*
9 *general waiver and release of all tort claims relating to the charge or charges eligible for*
10 *expungement under § 10–105 of this subtitle.*

11   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2023.

Approved:

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                                        Governor.

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                              President of the Senate.

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                        Speaker of the House of Delegates.