

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 97
Judiciary

(Delegate Bartlett)

Criminal Procedure - Expungement of Records - Waiting Periods

This bill shortens some of the waiting periods for filing a petition to expunge records related to a conviction under § 10-110 of the Criminal Procedure Article. The bill establishes the following waiting periods for filing an expungement petition following the petitioner's satisfaction of the sentence(s) imposed for all convictions for which expungement is sought, including parole, probation, or mandatory supervision: 3 years for a misdemeanor in general (currently 10 years); 5 years for a violation of § 3-203 of the Criminal Law Article or common law battery (currently 15 years); and 5 years for a felony in general (currently 15 years).

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures to implement the bill's provisions; any potential impact is likely limited to the initial years of implementation. Revenues are not materially affected.

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

Small Business Effect: None.

Analysis

Current Law: 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. A person who is convicted of possession with the intent to distribute cannabis under § 5-602(b)(1) of the Criminal Law Article may file a petition for expungement of the conviction three years after satisfaction of the sentence(s) imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. (The applicable waiting periods to expunge records based on a conviction for a “domestically related crime” and intent to distribute cannabis under § 5-602(b)(1) of the Criminal Law Article are unchanged by the bill.)

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.

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article, arise from the same incident, transaction, or set of facts, they are considered to be a unit. A charge for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the 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 or conviction in the unit.

State Fiscal Effect: General fund expenditures may increase minimally to implement the bill’s provisions, depending on existing agency resources. While the bill may create an initial influx of expungement petitions filed in the courts and orders for expungement received by applicable custodians of records, the bill does not expand eligibility for expungement, and petition volume is expected to stabilize eventually. Thus, the bill is not expected to affect overall expungement volume.

The courts currently charge a \$30 filing fee for petitions to expunge a guilty disposition (conviction), but fee waivers for financial hardship are available. The bill alters the pace, but not the overall amount, of filing fee revenues. The Judiciary advises that it can

implement the bill with existing personnel. The Department of Legislative Services (DLS) assumes that minimal costs associated with revisions to expungement brochures (and related material) are generally absorbable within existing budgeted resources.

Other State agencies involved in expungements, such as the Department of State Police (DSP) and the Department of Public Safety and Correctional Services (DPSCS) are likely to experience similar initial increases in the volume of expungement orders received. However, as noted above, this volume will eventually stabilize. DSP advises that it can implement the bill with existing budgeted resources. While it cannot estimate projected changes in expungement volume under the bill, DPSCS advises generally that the Criminal Justice Information System (CJIS) requires one additional administrative employee (at a cost of approximately \$68,500 and gradually increasing to \$92,800 by fiscal 2028) for every 2,500 additional orders for expungement it receives. However, DLS notes that CJIS has been routinely accommodating workloads beyond the 2,500-caseload standard. As previously noted, the bill primarily impacts the timing of expungement petitions and not the overall volume. Accordingly, while DPSCS may incur minimal expenditures to accommodate an initial influx of expungement petitions, the bill's isolated impact on the workload for CJIS is not anticipated to necessitate additional permanent staff.

Local Fiscal Effect: The City of Havre de Grace and Anne Arundel, Charles, Garrett, and Howard counties advise that they do not anticipate a material fiscal impact from the bill.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 37 (Senator Waldstreicher) - Judicial Proceedings.

Information Source(s): Anne Arundel, Charles, Garrett, and Howard counties; City of Havre de Grace; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Maryland State Archives; Department of Legislative Services

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