

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 17

(Senator Carter)

Judicial Proceedings

Criminal Procedure - Expungement of Records - Good Cause

This bill authorizes a court to grant a petition for expungement filed under § 10-110 of the Criminal Procedure Article at any time on a showing of good cause.

Fiscal Summary

State Effect: The bill is not anticipated to have a material effect on State finances or operations.

Local Effect: The bill is not anticipated to have a material effect on local finances or operations.

Small Business Effect: None.

Analysis

Current Law: In general, a person seeking expungement of records pertaining to a criminal charge must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article.

With some exceptions, § 10-105 applies to dispositions other than a conviction, and § 10-110 applies to expungements of convictions. While petitioners under both statutes must comply with specified waiting periods, a court is authorized to grant a petition for expungement filed under § 10-105(c)(9) at any time on a showing of good cause. This “good cause” provision addresses a court’s authority to grant a petition for expungement outside the statutory time requirements when all other eligibility criteria have been met.

In re Expungement Petition of Vincent S., Nos. 607 and 608, September Term 2021. Determinations of good cause are at the discretion of the court.

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.

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: The courts currently charge a \$30 filing fee for petitions to expunge a guilty disposition (conviction), but fee waivers for financial hardship are available. Assuming that the bill does not prompt the filing of petitions by individuals who would not otherwise file a petition at a later date, the bill alters the pace, but not the overall amount, of filing fee revenues. The Judiciary advises that while it cannot predict the exact impact

of the bill on additional filings of petitions for expungement, it does not anticipate numbers that would have a significant fiscal or operational impact.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Montgomery County; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of General Services; 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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js/jkb

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510