

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 454

(Senator Carter)

Judicial Proceedings

Criminal Procedure - Expungement - Completion of Sentence

This bill alters various statutory provisions relating to waiting periods for the filing of a petition to expunge a conviction under §§ 10-105 or 10-110 of the Criminal Procedure Article. The bill authorizes the filing of such a petition after “completion of the sentence.” “Completion of the sentence” is defined as the time when a sentence has expired, including any period of probation, parole, or mandatory supervision. Current law in the affected provisions refers to “*satisfies* the sentence” or “*satisfactory* completion of the sentence.”

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Eligibility for Expungements – Waiting Periods

With some exceptions, 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.

Sections 10-105 and 10-110 contain waiting periods for filing a petition for expungement. With respect to § 10-105, the bill makes the following changes:

- Conviction for specified public nuisance crimes:
 - *Current Waiting Period:* Three years after the conviction or *satisfactory* completion of the sentence, including probation, that was imposed for the conviction, whichever is later.
 - *Under the bill:* Three years after the “completion of the sentence.”
- Conviction for possession of cannabis under § 5-601 of the Criminal Law Article:
 - *Current Waiting Period:* After the *satisfactory* completion of the sentence, including probation, that was imposed for the conviction.
 - *Under the Bill:* After the “completion of the sentence.”

Under current law, the waiting periods under § 10-110 begin after the petitioner *satisfies* the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. Under the bill, these waiting periods begin after “completion of the sentence.”

2022 Court Decision

In 2022, the Court of Special Appeals (now the Appellate Court of Maryland), held that the Circuit Court for Montgomery County properly denied a petition to expunge a 2008 conviction for theft under \$500 when the petitioner was sentenced to supervised probation for his conviction, subsequently violated his probation, and then served a four-day sentence for the probation violation. According to the Court of Special Appeals, even though the petitioner completed his sentence for the probation violation, because the petitioner was originally sentenced to probation and violated that probation (resulting in an unsatisfactory closing of the probation), the petitioner did not *satisfy* his original sentence. *In re Expungement Petition of Abhishek I.*, 255 Md. App. 464 (2022).

Additional Information

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

Designated Cross File: HB 73 (Delegate Bartlett) - Judiciary.

Information Source(s): Anne Arundel, Baltimore, and Frederick counties; Maryland State Treasurer’s Office; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of General Services; Department of Natural Resources; Department of Public Safety and Correctional
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Services; Department of State Police; Maryland Department of Transportation; Maryland State Archives; Department of Legislative Services

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Analysis by: Amy A. Devadas

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