Article - Criminal Procedure

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§10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902(c), (d), (h), or (i) of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge "stet" or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article;

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;

(9) the person was convicted of a crime or found not criminally responsible under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

(iv) obstructing the free passage of another in a public place or a public conveyance;

(v) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or

(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article;

(10) the person was found not criminally responsible under any State or local law that prohibits misdemeanor:

(i) trespass;

(ii) disturbing the peace; or

(iii) telephone misuse;

(11) except as provided in subsection (a–1) of this section, the person was convicted of a crime and the act on which the conviction was based is no longer a crime;

(12) the person was convicted of possession of cannabis under § 5–601 of the Criminal Law Article; or

(13) the person was convicted of a crime and the conviction was vacated under § 8–302 of this article.

(a–1) An expungement may not be obtained under subsection (a)(11) of this section for a conviction for sodomy as that offense existed before October 1, 2020, or a violation of § 3–322 of the Criminal Law Article as that offense existed before October 1, 2023, where the offense was committed:

(1) without consent;

(2) with a minor under the age of 16;

(3) with anyone the individual could not marry under § 2–202 of the Family Law Article;

(4) with a mentally incapacitated individual, as defined in § 3–301 of the Criminal Law Article;

(5) with a physically helpless individual, as defined in § 3–301 of the Criminal Law Article; or

(6) with a substantially cognitively impaired individual, as defined in § 3–301 of the Criminal Law Article.

(a–2) A person's attorney or personal representative may file a petition, on behalf of the person, for expungement under this section if the person died before disposition of the charge by nolle prosequi or dismissal.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection and § 10–105.1 of this subtitle, a person shall file a petition in the court in which the proceeding began.

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

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

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

(ii) The appellate court may remand the matter to the court of original jurisdiction.

(c) (1) Except as provided in paragraph (2) of this subsection, a petition for expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within 3 years after the disposition, unless the petitioner files with the petition a written general waiver and release of all the petitioner's tort claims arising from the charge.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, a petition for expungement based on a probation before judgment or a stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than the later of:

1. the date the petitioner was discharged from probation or the requirements of obtaining drug or alcohol abuse treatment were completed; or

2. 3 years after the probation was granted or stet with the requirement of drug or alcohol abuse treatment was entered on the docket.

(ii) A petition for expungement based on a probation before judgment for a violation of § 21–902(a) or (b) of the Transportation Article may not be filed within 15 years after the date the petitioner was discharged from probation.

(3) A petition for expungement based on a nolle prosequi with the requirement of drug or alcohol treatment may not be filed until the completion of the required treatment.

(4) A petition for expungement based on a full and unconditional pardon by the Governor may not be filed later than 10 years after the pardon was signed by the Governor.

(5) Except as provided in paragraph (2) of this subsection, a petition for expungement based on a stet or a compromise under § 3–207 of the Criminal Law Article may not be filed within 3 years after the stet or compromise.

(6) A petition for expungement based on the conviction of a crime under subsection (a)(9) of this section may not be filed within 3 years after the completion of the sentence.

(7) A petition for expungement based on a finding of not criminally responsible under subsection (a)(9) or (10) of this section may not be filed within 3 years after the finding of not criminally responsible was made by the court.

(8) A petition for expungement based on the conviction of a crime under subsection (a)(12) of this section may not be filed before the completion of the sentence.

(9) A court may grant a petition for expungement at any time on a showing of good cause.

(d) (1) Except as provided in § 10–105.1 of this subtitle, the court shall have a copy of a petition for expungement served on the State's Attorney.

(2) Unless the State's Attorney files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.

(e) (1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.

(2) If the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.

(3) If the court finds that the person is not entitled to expungement, the court shall deny the petition.

(4) The person is not entitled to expungement if:

(i) except as provided in item (ii) of this paragraph, the petition is based on the entry of probation before judgment, except a probation before judgment for a crime where the act on which the conviction is based is no longer a crime, and the person within 3 years after the entry of the probation before judgment has been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime;

(ii) the petition is based on the entry of probation before judgment for a violation of § 21–902(a) or (b) of the Transportation Article and the person within 15 years after the entry of the probation before judgment has:

1. been convicted of a crime other than a minor traffic violation or a crime where the act on which the conviction is based is no longer a crime; or

2. received probation before judgment for a violation of § 21–902 of the Transportation Article; or

(iii) the person is a defendant in a pending criminal proceeding.

(5) In determining whether the person is entitled to expungement, the court shall consider, to the extent applicable:

(i) the person's success at probation, parole, or mandatory supervision; and

(ii) whether the person has paid any monetary restitution ordered by the court in the original proceeding or does not have the ability to pay the restitution.

(f) Except as provided in § 10–105.1 of this subtitle and unless an order is stayed pending an appeal, within 60 days after entry of the order, every custodian of the police records and court records that are subject to the order of expungement shall advise in writing the court and the person who is seeking expungement of compliance with the order.

(g) (1) The State's Attorney is a party to the proceeding.

(2) A party aggrieved by the decision of the court is entitled to appellate review as provided in the Courts Article.

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