



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2023 Session
HB0097

Criminal Procedure - Expungement of Records - Waiting Periods

Bill Summary

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).

Racial Equity Impact Statement

The bill's provisions shortening the waiting periods for expunging a criminal record for specified offenses will positively impact all individuals experiencing the adverse consequences of a criminal record, especially in the areas of employment and economic security. Data suggests that Black or African American individuals convicted of the crimes covered under the bill may benefit the most as evidenced by their general overrepresentation in the incarcerated population of the State. The exact magnitude of the impact cannot be reliably estimated without demographic data on expungement applications and completed expungements.

Analysis

The bill shortens the waiting periods for individuals convicted of certain misdemeanors, common law battery, and some felonies to file for expungement of their criminal records. The bill's reduction of expungement waiting periods will likely impact Black or African American individuals to a greater extent as Maryland incarcerates those individuals at disproportionately high rates. The Department of Public Safety and Correctional Services reports that for fiscal 2022,

Black or African American individuals made up 71% of Maryland’s prison population contrasted with their 29% share of the State’s overall population.

According to the Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS), there were 73,000 orders for expungement in Maryland in 2019. There is no demographic data available that indicates the racial and ethnic composition of applicants. However, if trends for incarceration in the State were to mimic trends for expungement applications, there would be both a significant number and percentage of Black or African American individuals who would be eligible to seek expungement after a shorter waiting period under the bill.

Beyond the immediate impact on waiting times, the bill’s provisions may yield further positive outcomes as evidence suggests that those who are able to expunge their criminal records are more likely to be employed and have higher wages than those who are not. A 2016 report conducted by GOCPYVS details the collateral consequences to having a criminal record. These adverse effects include reduced access to housing, public services, voting, holding public office, employment opportunities, and professional licensure. These difficulties in turn can increase recidivism and could perpetuate a larger cycle of involvement in the carceral system.

Conclusion

By facilitating expungement of criminal records through shorter waiting times, this bill would likely alleviate some of the negative consequences of having a criminal record, especially for Black or African American individuals who face convictions and imprisonment at disproportionately high rates. Without historical demographic data associated with expungement applications and successful expungements, however, the exact impact of the bill on various racial and ethnic groups cannot be reliably estimated.

Information Sources: Pew Charitable Trusts; Department of Public Safety and Correctional Services; Governor’s Office of Crime Prevention, Youth, and Victim Services; Department of Legislative Services

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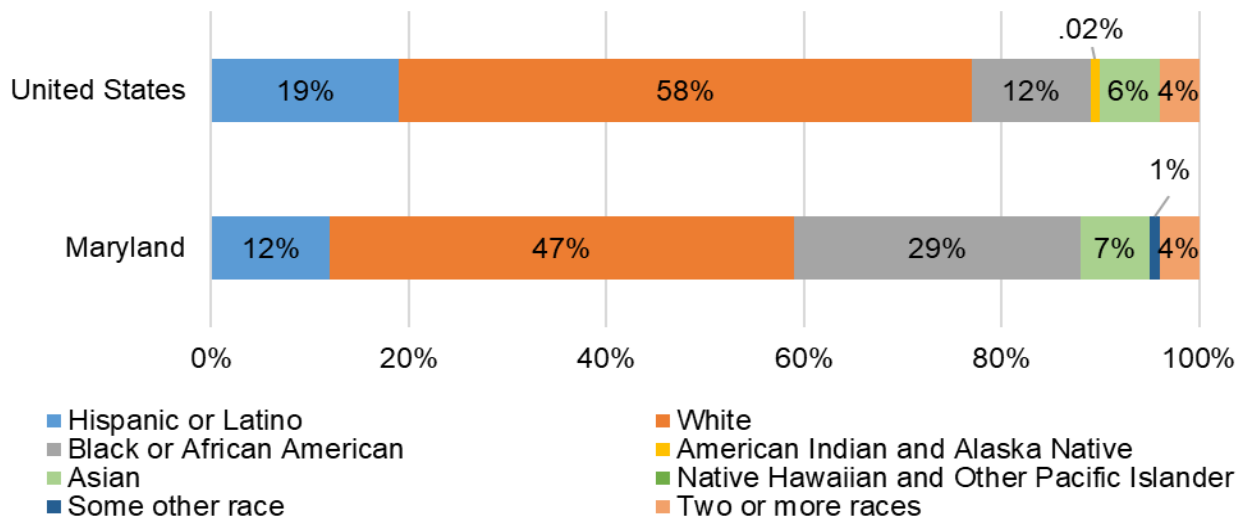
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest single race demographic group in the State of Maryland comprising 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national population, the largest shares of the non-white population are individuals who are Black or African American, with 29% of the State population identifying only as Black or African American and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.