



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2023 Session
HB0746

Criminal Procedure - Expungement of Records - Waiting Period

Bill Summary

This bill establishes that a petition for expungement under § 10-105 of the Criminal Procedure Article based on a not guilty verdict, an acquittal, a *nolle prosequi*, or a dismissal may be filed immediately after the disposition of the charge. The bill repeals the existing three-year waiting period for the filing of these expungement petitions and the requirement that a petitioner who wishes to file a petition prior to the expiration of the waiting period file a written general waiver and release of all the petitioner's tort claims arising from the charge. A police or court record expunged under the bill must be stored in accordance with specified provisions.

Racial Equity Impact Statement

Under the bill, records of court proceedings that did not result in a conviction would be eligible for expungement immediately as opposed to the three-year waiting period under existing law. National data shows the significant negative effects of a criminal record on employment outcomes. These negative effects impact outcomes even in cases where there is no conviction or incarceration and appear to be substantially larger for Black or African American individuals. In Maryland, Black or African American individuals are significantly overrepresented in the criminal justice system. Accordingly, the bill will potentially impact Black or African American individuals to the greatest extent. Additional data would be required to measure the overall equity impacts.

Analysis

The bill repeals the waiting period to file for expungement of court records in cases where a not guilty verdict, an acquittal, a *nolle prosequi*, or a dismissal was entered. Additionally, the bill mandates that records awaiting expungement be kept in a secure location where those without

legitimate (pertaining specifically to the case) reason for requesting the records be denied access until the record’s obliteration following the three-year waiting period.

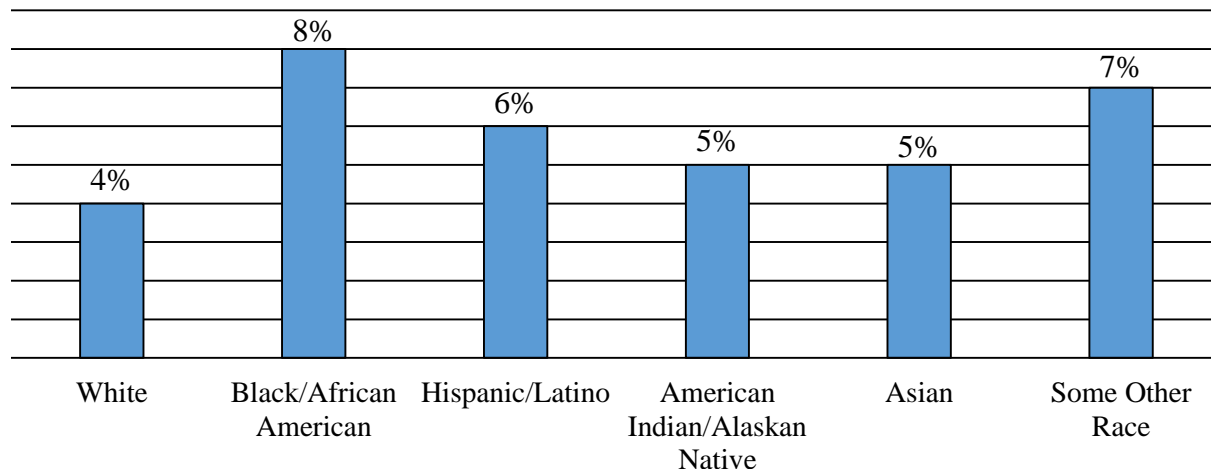
The provisions of the bill would give individuals the opportunity to *immediately* remove any evidence of a court proceeding not leading to a conviction. According to the Administrative Office of the Courts, there were 38,448 orders for expungement in both the District Court and circuit court combined for fiscal 2022. There is no demographic data available that indicates the racial and ethnic composition of individuals impacted by expungement.

Collateral Consequences of a Criminal Record

Expungement is intended to help mitigate the adverse consequences of having a criminal record, which can last beyond imprisonment, fines, and legal process and can include the removal of civil opportunities and benefits available to a person due to their record. As a result, a criminal record can impede a person’s ability to successfully reenter society. Specifically, having a criminal history even without a conviction or incarceration can adversely affect employment prospects which can further influence an individual’s level of income, housing opportunities, and access to quality health care.

National and state data consistently show that racial minorities experience disproportionate levels of adversity in the areas of life affected by a criminal record. National studies have found that there is a significant negative effect of having a criminal record on employment outcomes that appears substantially larger for Black or African American individuals. As shown in **Exhibit 1**, in 2021, the unemployment rate in Maryland was highest among Black or African American job seekers and twice the rate of white job seekers in the State.

Exhibit 1
Percent Unemployed in Maryland
2021



Conclusion

While the exact magnitude of the impacts of the bill cannot be accurately estimated, data suggests there is correlation between having a criminal record and greater difficulty in upward socioeconomic mobility. To the extent that the bill allows for quicker and successful expungement of court records that did not result in a conviction, it would eliminate obstacles that can be created by criminal court histories. Black or African American individuals in particular may benefit to a greater extent as this group is overrepresented in the State's criminal justice system.

Information Sources: University of Baltimore Schaefer Center for Public Policy; Governor's Office of Crime Prevention, Youth, and Victim Services; Administrative Office of the Courts; Department of Legislative Services

Analysis by: Dr. Mikaela Zimmerman

Published: 03/08/2023

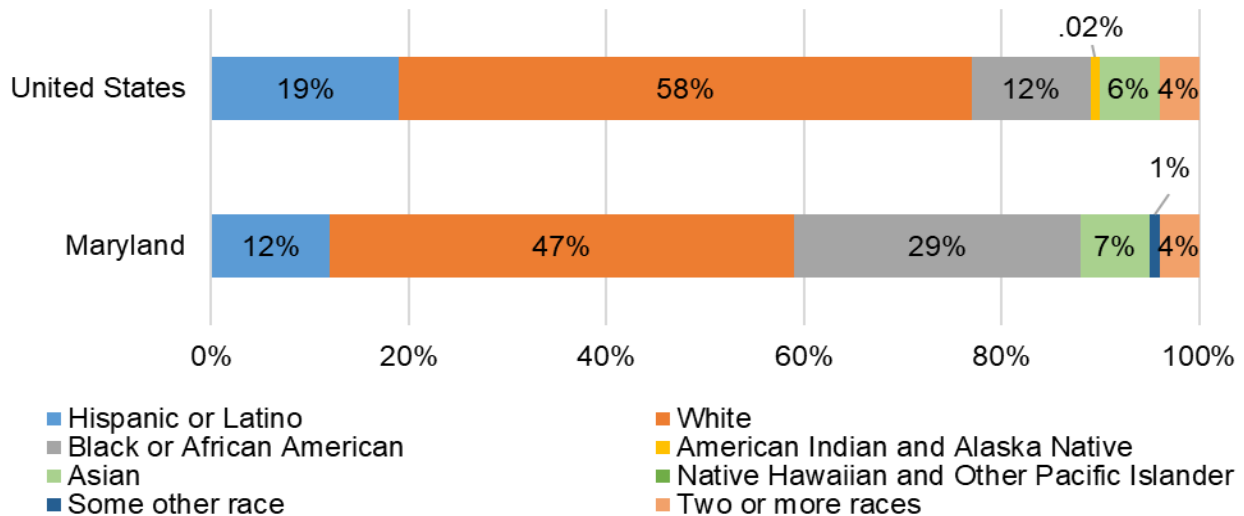
Appendix – Maryland Demographics

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.