



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
HB0073

Criminal Procedure - Expungement - Completion of Sentence

Bill Summary

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.”

Racial Equity Impact Statement

The bill’s provisions allow individuals who have violated probation or other terms of their sentence for specified offenses to still be eligible for expungement. This will likely increase the number of ex-offenders eligible for expungement of all or part of their criminal record following the expiration of their sentence and positively impact individuals experiencing the adverse consequences of a criminal record, especially in the areas of employment and economic security. Data from the Division of Parole and Probation (DPP) indicates that a significant portion of individuals under general supervision in the State do not satisfactorily complete it. Black individuals may benefit the most, as evidenced by their general overrepresentation in the State’s criminal justice system. The exact magnitude of the impact cannot be reliably estimated without specific demographic data on expungement applications for the specified offenses and probation violations.

Analysis

The bill clarifies that expungements for specified convictions are allowed after the sentence has *expired*, without further requirements regarding how successfully the sentence was completed.

Expungable offenses covered under the bill include possession with intent to distribute cannabis, specified domestically related crimes, battery, traffic, breaking and entering, and civil offenses.

In November 2022, the Appellate Court of Maryland upheld a lower court ruling that if an individual violates their terms of probation, it does not satisfy the requirement in the expungement statute that allows expungement only after the person “satisfies” the sentence imposed for the conviction sought to be expunged, including parole, probation, or mandatory supervision. Thus, under the court’s ruling, a parole violation renders the underlying conviction indefinitely ineligible for expungement.

According to the Administrative Office of the Courts, there were 45,001 petitions for expungement in fiscal 2021 and 38,448 petitions for expungement in fiscal 2022 in both the district and circuit court. There is no demographic data currently available that indicates the racial and ethnic composition of expungement applicants.

The provisions of the bill will likely impact Black individuals to a greater extent as these individuals are incarcerated at disproportionately high rates in Maryland. The Department of Public Safety and Correctional Services reports that, for fiscal 2023, Black individuals made up 71% of Maryland’s prison population contrasted with their 29% share of the State’s overall population. More specifically, DPP reports that 43% of the population under general supervision in 2022 did not successfully complete the terms of their supervision. Unsuccessful completion included technical parole violations, commission of new offenses, and other unsatisfactory behavior.

Assuming trends for expungement applications mimic trends for charges, convictions and incarceration in the State, there would be both a significant number and percentage of Black individuals who would benefit under the bill. Representing a disproportionate share of the charged, arrested, convicted, and incarcerated population, it is a reasonable assumption that Black individuals comprise a meaningful portion of the population with expungement eligible records.

Beyond the immediate impact on expungement eligibility, 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. Previous research has detailed 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

While the number of eligible expungement applications would likely increase under the bill, the exact impact cannot be reliably estimated without additional data on these applications and how many are rejected based on the failure to satisfactorily complete a sentence. Data from DPP however, suggests a significant amount of offenders under supervision could benefit prospectively from the bill given the substantial number of supervision cases that fail to be completed without any violations. Accordingly, this bill would likely alleviate some of the negative consequences of

having a criminal record by increasing successful expungement rates for the specified offenses. These impacts would be most significant for Black individuals who face convictions and imprisonment at disproportionately high rates.

Information Sources: Pew Charitable Trusts; Department of Public Safety and Correctional Services; Administrative Office of the Courts; Governor's Office of Crime Prevention and Policy; Appellate Court of Maryland; Department of Legislative Services

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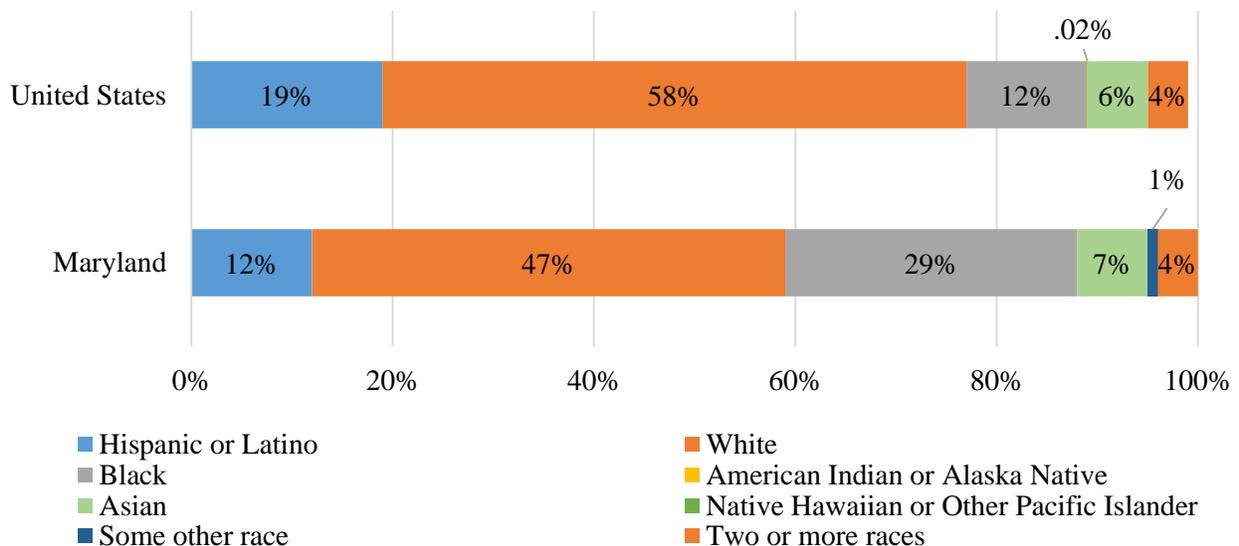
Appendix – Maryland Demographics

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, with 29% of the State population identifying only as Black 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.