

# JOTF JOB OPPORTUNITIES TASK FORCE

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## **“GOOD CAUSE” EXPUNGEMENT BY JUDICIAL DISCRETION** ***Allow Courts and Judges to Expunge Criminal Records for Good Cause***

### **Senate Bill 17/ House Bill 664**

#### **Goal of this bill:**

Give courts the authority to expunge felony and misdemeanor records for a good cause. Amendments under consideration to the bill are underlined.

#### **Current Bill Language:**

<https://mgaleg.maryland.gov/2023RS/bills/hb/hb0664F.pdf>

#### **More Bill Details Here:**

<https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/HB0664?ys=2023RS>

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### **Article – Criminal Procedure**

§10–110.

(a) A person 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 the person is convicted of:

(1) a misdemeanor that is a violation of:

(i) § 6–320 of the Alcoholic Beverages Article;

(ii) an offense listed in § 17–613(a) of the Business Occupations and Professions Article;

(iii) § 5–712, § 19–304, § 19–308, or Title 5, Subtitle 6 or Subtitle 9 of the Business Regulation Article;

(iv) § 3–1508 or § 10–402 of the Courts Article;

(v) § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law Article;

(vi) § 5–211 of this article;

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- (vii) § 3–203 or § 3–808 of the Criminal Law Article;
- (viii) § 5–601 not involving the use or possession of marijuana, § 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law Article;
- (ix) § 6–105, § 6–108, § 6–205 (fourth-degree burglary), § 6–206, § 6–303, § 6–306, § 6–307, § 6–402, or § 6–503 of the Criminal Law Article;
- (x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the Criminal Law Article;
- (xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, § 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;
- (xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;
- (xiii) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the Criminal Law Article;
- (xiv) § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;
- (xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, § 12–204, § 12–205, or § 12–302 of the Criminal Law Article;
- (xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;
- (xvii) § 4–509 of the Family Law Article;
- (xviii) § 18–215 of the Health – General Article;
- (xix) § 4–411 or § 4–2005 of the Housing and Community Development Article;
- (xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, § 27–407.1, or § 27–407.2 of the Insurance Article;
- (xxi) § 8–725.4, § 8–725.5, § 8–725.6, § 8–725.7, § 8–726, § 8–726.1, § 8–727.1, or § 8–738.2 of the Natural Resources Article or any prohibited act related to speed limits for personal watercraft;

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- (xxii) § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public Safety Article;
  - (xxiii) § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;
  - (xxiv) § 9–124 of the State Government Article;
  - (xxv) § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the Tax – General Article;
  - (xxvi) § 16–303 of the Transportation Article; or
  - (xxvii) the common law offenses of affray, rioting, criminal contempt, battery, or hindering;
- (2) a felony that is a violation of:
- (i) § 7–104 of the Criminal Law Article;
  - (ii) the prohibition against possession with intent to distribute a controlled dangerous substance under § 5–602(2) of the Criminal Law Article; or
  - (iii) § 6–202(a), § 6–203, or § 6–204 of the Criminal Law Article; or
- (3) an attempt, a conspiracy, or a solicitation of any offense listed in item (1) or (2) of this subsection.
- (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person shall file a petition for expungement 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.

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(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a petition for expungement under this section may not be filed earlier than 10 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(2) A petition for expungement for a violation of § 3–203 of the Criminal Law Article, common law battery, or for an offense classified as a domestically related crime under § 6–233 of this article may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

(3) A petition for expungement of a felony may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

**(4) A COURT MAY GRANT A PETITION FOR EXPUNGEMENT AT ANY TIME ON A SHOWING OF GOOD CAUSE ACCORDING TO THE PROVISIONS LISTED IN SUBSECTION F(3) OF THIS SUBSECTION.**

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(d) (1) If the person is convicted of a new crime during the applicable time period set forth in subsection (c) of this section, the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement.

(2) A person is not eligible for expungement if the person is a defendant in a pending criminal proceeding.

(3) If a person is not eligible for expungement of one conviction in a unit, the person is not eligible for expungement of any other conviction in the unit.

(e) (1) The court shall have a copy of a petition for expungement served on the State's Attorney.

(2) The court shall send written notice of the expungement request to each listed victim in the case in which the petitioner is seeking expungement at the address listed in the court file, advising the victim of the right to offer additional information relevant to the expungement petition to the court.

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(3) Unless the State's Attorney or a victim 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.

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

(2) The court shall order the expungement of all police records and court records about the charge after a hearing, if the court finds and states on the record:

- (i) that the conviction is eligible for expungement under subsection (a) of this section;
- (ii) that the person is eligible for expungement under subsection (d) of this section;
- (iii) that giving due regard to the nature of the crime, the history and character of the person, and the person's success at rehabilitation, the person is not a risk to public safety; and
- (iv) that an expungement would be in the interest of justice.

**(3) A COURT MAY GRANT A PETITION FOR EXPUNGEMENT AT ANY TIME ON A SHOWING OF GOOD CAUSE AFTER THE COMPLETION OF THE SENTENCE, PAROLE, PROBATION, AND ANY OTHER FORM OF MANDATORY TREATMENT ASSOCIATED WITH THE CHARGE. AN INDIVIDUAL MAY PETITION FOR AN EXPUNGEMENT ON THE BASIS OF GOOD CAUSE:**

**(I) FOR A SPECIFIC CASE INVOLVING A MISDEMEANOR CHARGE, ONCE EVERY THREE YEARS.**

**(II) FOR A SPECIFIC CASE INVOLVING A FELONY CHARGE, ONCE EVERY FIVE YEARS.**

**(III) A PETITION FOR EXPUNGEMENT OF GOOD CAUSE, IF DENIED BY THE COURT OR JUDICIAL OFFICIAL, MAY NOT BE APPEALED.**

(g) If at a hearing the court finds that a person is not entitled to expungement, the court shall deny the petition.

(h) Unless an order is stayed pending 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.

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.