

HOUSE BILL 244

E2
SB 1056/14 – JPR

5lr1238
CF SB 526

By: **Delegates Anderson, Vallario, Smith, Lierman, B. Robinson, Carter, Conaway, Dumais, Glenn, Hixson, McCray, McIntosh, Moon, Morales, Proctor, Rosenberg, Turner, Valentino-Smith, and C. Wilson**

Introduced and read first time: February 2, 2015
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: April 4, 2015

CHAPTER _____

1 AN ACT concerning

2 **Maryland Second Chance Act of 2015**

3 FOR the purpose of authorizing a person to petition the court to shield certain court records
4 and police records relating to certain convictions at a certain time; providing that, if
5 a certain person is convicted of a new crime during a certain time period, a certain
6 original conviction ~~is~~ or convictions are not eligible for shielding unless the new
7 conviction becomes eligible for shielding; providing that a certain person is not
8 eligible for shielding if the person is a defendant in a pending criminal proceeding;
9 providing that, if a person is not eligible for shielding of one conviction in a certain
10 unit, the person is not eligible for shielding of any other conviction in the unit;
11 providing that a certain conviction is eligible for shielding at a certain time; requiring
12 the court to have a copy of a certain petition served on the State's Attorney;
13 authorizing the court to order the shielding of certain records after taking certain
14 objections or information into consideration; requiring the court to hold a hearing
15 under certain circumstances; authorizing the court to ~~deny~~ grant a certain petition
16 for good cause; ~~authorizing a court to grant~~ providing that a person may be granted
17 only one shielding petition ~~to a person~~ over the lifetime of the person; requiring the
18 court to send a certain written notice to certain victims; prohibiting the Maryland
19 Judiciary Case Search from in any way referring to the existence of specific records
20 shielded in accordance with this Act; providing that a conviction that has been
21 shielded in accordance with this Act may not be considered a conviction for certain
22 purposes; prohibiting a person authorized to access a shielded record under this Act
23 from disclosing any information from a shielded record to a person who is not

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 authorized to access shielded records under this Act; prohibiting an employer from
 2 requiring a person who applies for employment to disclose certain shielded
 3 information at a certain time or discharging or refusing to hire a person solely
 4 because the person refused to disclose certain information, with a certain exception;
 5 prohibiting an educational institution from requiring a person who applies for
 6 admission to the institution to disclose certain shielded information at a certain time
 7 or expelling or refusing to admit a person solely because the person refused to
 8 disclose certain information; prohibiting a unit, an official, or an employee of the
 9 State or a political subdivision of the State from requiring a person who applies for
 10 a ~~license, certificate, permit, registration, or government service~~ to disclose certain
 11 shielded information at a certain time or denying a person's application for a ~~license,~~
 12 ~~certificate, permit, registration, or government service~~ solely because the person
 13 refused to disclose certain information, with a certain exception; requiring a certain
 14 custodian to deny inspection of criminal records and police records relating to the
 15 conviction of a crime that has been shielded under this Act, with certain exceptions;
 16 providing that this Act does not apply to a certain conviction; providing that a
 17 shielded record shall remain fully accessible by certain persons; ~~establishing~~
 18 ~~penalties for a violation of a certain provision of this Act~~; defining certain terms; and
 19 generally relating to the shielding of court records and police records.

20 BY adding to

21 Article – Criminal Procedure

22 Section 10–301 through 10–306 to be under the new subtitle “Subtitle 3. Shielding”

23 Annotated Code of Maryland

24 (2008 Replacement Volume and 2014 Supplement)

25 BY adding to

26 Article – General Provisions

27 Section 4–327

28 Annotated Code of Maryland

29 (2014 Volume)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

31 That the Laws of Maryland read as follows:

32 **Article – Criminal Procedure**

33 **SUBTITLE 3. SHIELDING.**

34 **10–301.**

35 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 36 INDICATED.

37 (B) “COURT RECORD” HAS THE MEANING STATED IN § 10–101 OF THIS
 38 TITLE.

1 (C) "CRIMINAL JUSTICE UNIT" HAS THE MEANING STATED IN § 10-201 OF
2 THIS TITLE.

3 (D) "POLICE RECORD" HAS THE MEANING STATED IN § 10-101 OF THIS
4 TITLE.

5 (E) "SHIELD" MEANS TO RENDER A COURT RECORD AND POLICE RECORD
6 RELATING TO A CONVICTION OF A CRIME INACCESSIBLE BY MEMBERS OF THE
7 PUBLIC.

8 (F) "SHIELDABLE CONVICTION" MEANS A CONVICTION OF ONE OF THE
9 FOLLOWING CRIMES:

10 (1) DISORDERLY CONDUCT UNDER § 10-201(C)(2) OF THE CRIMINAL
11 LAW ARTICLE;

12 (2) DISTURBING THE PEACE UNDER § 10-201(C)(4) OF THE CRIMINAL
13 LAW ARTICLE;

14 (3) FAILURE TO OBEY A REASONABLE AND LAWFUL ORDER UNDER §
15 10-201(C)(3) OF THE CRIMINAL LAW ARTICLE;

16 (4) MALICIOUS DESTRUCTION OF PROPERTY IN THE LESSER DEGREE
17 UNDER § 6-301 OF THE CRIMINAL LAW ARTICLE;

18 (5) TRESPASS ON POSTED PROPERTY UNDER § 6-402 OF THE
19 CRIMINAL LAW ARTICLE;

20 ~~(6) MISDEMEANOR THEFT OF PROPERTY OR SERVICES UNDER §~~
21 ~~7-104(C)(2) OR (3) OF THE CRIMINAL LAW ARTICLE;~~

22 ~~(7)~~ (6) POSSESSING OR ADMINISTERING A CONTROLLED
23 DANGEROUS SUBSTANCE UNDER § 5-601 OF THE CRIMINAL LAW ARTICLE;

24 ~~(8)~~ (7) POSSESSING OR ADMINISTERING A NONCONTROLLED
25 SUBSTANCE UNDER § 5-618(A) OF THE CRIMINAL LAW ARTICLE;

26 ~~(9)~~ (8) USE OF OR POSSESSION WITH INTENT TO USE DRUG
27 PARAPHERNALIA UNDER § 5-619(C)(1) OF THE CRIMINAL LAW ARTICLE;

28 ~~(10)~~ (9) DRIVING WITHOUT A LICENSE UNDER § 16-101 OF THE
29 TRANSPORTATION ARTICLE;

1 ~~(11)~~ **(10)** DRIVING WHILE PRIVILEGE IS CANCELED, SUSPENDED,
 2 REFUSED, OR REVOKED UNDER ~~§ 16-303(A), (B), (C), (D), (E), (F), OR (G)~~ **§ 16-303**
 3 OF THE TRANSPORTATION ARTICLE;

4 ~~(12)~~ **(11)** DRIVING WHILE UNINSURED UNDER § 17-107 OF THE
 5 TRANSPORTATION ARTICLE; OR

6 ~~(13)~~ **(12)** A PROSTITUTION OFFENSE UNDER § 11-306(A)(1) OF THE
 7 CRIMINAL LAW ARTICLE IF THE CONVICTION IS FOR PROSTITUTION AND NOT
 8 ASSIGNATION.

9 (G) "UNIT" MEANS TWO OR MORE CONVICTIONS THAT ARISE FROM THE
 10 SAME INCIDENT, TRANSACTION, OR SET OF FACTS.

11 **10-302.**

12 (A) THIS SUBTITLE DOES NOT APPLY TO A CONVICTION OF A DOMESTICALLY
 13 RELATED CRIME UNDER § 6-233 OF THIS ARTICLE.

14 (B) A SHIELDED RECORD SHALL REMAIN FULLY ACCESSIBLE BY:

15 (1) CRIMINAL JUSTICE UNITS FOR LEGITIMATE CRIMINAL JUSTICE
 16 PURPOSES;

17 (2) PROSPECTIVE OR CURRENT EMPLOYERS ~~WHO~~ OR GOVERNMENT
 18 LICENSING AGENCIES THAT ARE SUBJECT TO A STATUTORY OR CONTRACTUAL
 19 REGULATORY REQUIREMENT OR AUTHORIZATION TO INQUIRE INTO THE CRIMINAL
 20 BACKGROUND OF AN APPLICANT OR EMPLOYEE FOR PURPOSES OF CARRYING OUT
 21 THAT REQUIREMENT OR AUTHORIZATION;

22 (3) ~~FACILITIES THAT ARE AUTHORIZED~~ A PERSON THAT IS
 23 AUTHORIZED OR REQUIRED TO INQUIRE INTO AN INDIVIDUAL'S CRIMINAL
 24 BACKGROUND UNDER § 5-561(B), (C), (D), (E), (F), OR (G) OF THE FAMILY LAW
 25 ARTICLE;

26 (4) THE PERSON WHO IS THE SUBJECT OF THE SHIELDED RECORD
 27 AND THAT PERSON'S ATTORNEY; AND

28 (5) HEALTH OCCUPATIONS BOARDS ESTABLISHED UNDER THE
 29 HEALTH OCCUPATIONS ARTICLE;

30 (6) THE NATALIE M. LAPRADE MEDICAL MARIJUANA COMMISSION
 31 ESTABLISHED UNDER TITLE 13, SUBTITLE 33 OF THE HEALTH - GENERAL ARTICLE;

1 **(7) A PERSON THAT USES VOLUNTEERS WHO CARE FOR OR SUPERVISE**
 2 **CHILDREN;**

3 **(8) A PERSON THAT ATTESTS UNDER THE PENALTY OF PERJURY THAT**
 4 **THE PERSON EMPLOYS OR SEEKS TO EMPLOY AN INDIVIDUAL TO CARE FOR OR**
 5 **SUPERVISE A MINOR OR VULNERABLE ADULT, AS DEFINED IN § 3-604 OF THE**
 6 **CRIMINAL LAW ARTICLE; AND**

7 **(9) A PERSON ~~RESPONSIBLE FOR ENFORCING OR ENSURING~~**
 8 **~~COMPLIANCE WITH A STATUTORY OR REGULATORY REQUIREMENT OR~~**
 9 **~~AUTHORIZATION DESCRIBED IN ITEM (2) WHO IS ACCESSING A SHIELDED RECORD~~**
 10 **ON BEHALF OF AND WITH WRITTEN AUTHORIZATION FROM A PERSON OR**
 11 **GOVERNMENTAL ENTITY DESCRIBED IN ITEMS (1) THROUGH (8) OF THIS**
 12 **SUBSECTION.**

13 **10-303.**

14 **(A) ~~EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A~~**
 15 **PERSON MAY PETITION THE COURT TO SHIELD THE PERSON'S COURT AND POLICE**
 16 **RECORDS RELATING TO ~~ALL~~ ONE OR MORE SHIELDABLE CONVICTIONS ENTERED ~~IN~~**
 17 **~~A SINGLE COURT CASE~~ IN THE CIRCUIT COURT OR THE DISTRICT COURT IN ONE**
 18 **COUNTY NO EARLIER THAN 3 YEARS AFTER THE PERSON SATISFIES THE SENTENCE**
 19 **OR SENTENCES IMPOSED FOR ~~ALL THE CONVICTION OR ALL~~ CONVICTIONS FOR**
 20 **WHICH SHIELDING IS REQUESTED, INCLUDING PAROLE, PROBATION, OR**
 21 **MANDATORY SUPERVISION.**

22 **(B) ~~A CONVICTION FOR THEFT OF PROPERTY OR SERVICES WITH A VALUE~~**
 23 **~~OF LESS THAN \$1,000 UNDER § 7-104(G)(2) OF THE CRIMINAL LAW ARTICLE IS~~**
 24 **~~ELIGIBLE FOR SHIELDING NO EARLIER THAN 5 YEARS AFTER THE PERSON SATISFIES~~**
 25 **~~THE SENTENCE IMPOSED FOR THE CONVICTION, INCLUDING PAROLE, PROBATION,~~**
 26 **~~OR MANDATORY SUPERVISION.~~**

27 **(C) (1) IF THE PERSON IS CONVICTED OF A NEW CRIME DURING THE**
 28 **APPLICABLE TIME PERIOD SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE**
 29 **ORIGINAL CONVICTION ~~IS~~ OR CONVICTIONS ARE NOT ELIGIBLE FOR SHIELDING**
 30 **UNLESS THE NEW CONVICTION BECOMES ELIGIBLE FOR SHIELDING.**

31 **(2) A PERSON IS NOT ELIGIBLE FOR SHIELDING IF THE PERSON IS A**
 32 **DEFENDANT IN A PENDING CRIMINAL PROCEEDING.**

33 **(D) (C) IF A PERSON IS NOT ELIGIBLE FOR SHIELDING OF ONE**
 34 **CONVICTION IN A UNIT, THE PERSON IS NOT ELIGIBLE FOR SHIELDING OF ANY**
 35 **OTHER CONVICTION IN THE UNIT.**

1 ~~(E)~~ (D) (1) THE COURT SHALL HAVE A COPY OF A PETITION FOR
2 SHIELDING SERVED ON THE STATE'S ATTORNEY.

3 (2) UNLESS THE STATE'S ATTORNEY FILES AN OBJECTION TO THE
4 PETITION FOR SHIELDING WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE
5 COURT MAY ORDER THE SHIELDING OF ALL POLICE RECORDS AND COURT RECORDS
6 RELATING TO THE CONVICTION OR CONVICTIONS AFTER TAKING INTO
7 CONSIDERATION ANY OBJECTIONS OR ADDITIONAL INFORMATION PROVIDED BY
8 THE STATE'S ATTORNEY OR THE VICTIM.

9 ~~(F)~~ (E) (1) IF THE STATE'S ATTORNEY FILES A TIMELY OBJECTION TO
10 THE PETITION, THE COURT SHALL HOLD A HEARING.

11 (2) IF THE COURT, AT THE HEARING, FINDS THAT THE PERSON IS
12 ENTITLED TO SHIELDING, THE COURT SHALL ORDER THE SHIELDING OF ALL POLICE
13 RECORDS AND COURT RECORDS RELATING TO THE CONVICTION OR CONVICTIONS.

14 (3) THE COURT MAY ~~DENY~~ GRANT A PETITION UNDER THIS
15 SUBSECTION FOR GOOD CAUSE.

16 (4) A ~~COURT MAY GRANT~~ PERSON MAY BE GRANTED ONLY ONE
17 SHIELDING PETITION ~~TO A PERSON~~ OVER THE LIFETIME OF THE PERSON.

18 ~~(G)~~ (F) THE COURT SHALL SEND WRITTEN NOTICE OF THE PROPOSED
19 ACTION TO ALL LISTED VICTIMS IN THE CASE IN WHICH THE PETITIONER IS SEEKING
20 SHIELDING AT THE ADDRESS LISTED IN THE COURT FILE ADVISING THE VICTIM OR
21 VICTIMS OF THE RIGHT TO OFFER ADDITIONAL INFORMATION RELEVANT TO THE
22 SHIELDING PETITION TO THE COURT.

23 **10-304.**

24 THE MARYLAND JUDICIARY CASE SEARCH MAY NOT IN ANY WAY REFER TO
25 THE EXISTENCE OF SPECIFIC RECORDS SHIELDED IN ACCORDANCE WITH THIS
26 SUBTITLE.

27 **10-305.**

28 A CONVICTION THAT HAS BEEN SHIELDED UNDER THIS SUBTITLE MAY NOT BE
29 CONSIDERED A CONVICTION FOR PURPOSES OF § 10-105(E)(4)(II)1 OF THIS TITLE.

30 **10-306.**

31 (A) A PERSON AUTHORIZED TO ACCESS A SHIELDED RECORD UNDER §
32 **10-302(B)** OF THIS SUBTITLE MAY NOT DISCLOSE ANY INFORMATION FROM A

1 SHIELDED RECORD TO A PERSON WHO IS NOT AUTHORIZED TO ACCESS SHIELDED
2 RECORDS UNDER § 10-302(B) OF THIS SUBTITLE.

3 (B) (1) EXCEPT AS PROVIDED IN § ~~10-302(B)(2)~~ 10-302(B) OF THIS
4 SUBTITLE, AN EMPLOYER MAY NOT:

5 (I) REQUIRE A PERSON WHO APPLIES FOR EMPLOYMENT TO
6 DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN
7 APPLICATION, AN INTERVIEW, OR OTHERWISE; OR

8 (II) DISCHARGE OR REFUSE TO HIRE A PERSON SOLELY
9 BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL
10 CHARGES THAT HAVE BEEN SHIELDED.

11 (2) AN EDUCATIONAL INSTITUTION MAY NOT:

12 (I) REQUIRE A PERSON WHO APPLIES FOR ADMISSION TO THE
13 INSTITUTION TO DISCLOSE SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN
14 AN APPLICATION, AN INTERVIEW, OR OTHERWISE; OR

15 (II) EXPEL OR REFUSE TO ADMIT A PERSON SOLELY BECAUSE
16 THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL CHARGES
17 THAT HAVE BEEN SHIELDED.

18 (3) EXCEPT AS PROVIDED IN § ~~10-302(B)(2)~~ 10-302(B) OF THIS
19 SUBTITLE, A UNIT, AN OFFICIAL, OR AN EMPLOYEE OF THE STATE OR A POLITICAL
20 SUBDIVISION OF THE STATE MAY NOT:

21 (I) REQUIRE A PERSON WHO APPLIES FOR A ~~LICENSE,~~
22 ~~CERTIFICATE,~~ PERMIT, REGISTRATION, OR GOVERNMENT SERVICE TO DISCLOSE
23 SHIELDED INFORMATION ABOUT CRIMINAL CHARGES IN AN APPLICATION, AN
24 INTERVIEW, OR OTHERWISE; OR

25 (II) DENY A PERSON'S APPLICATION FOR A ~~LICENSE,~~
26 ~~CERTIFICATE,~~ PERMIT, REGISTRATION, OR GOVERNMENT SERVICE SOLELY
27 BECAUSE THE PERSON REFUSED TO DISCLOSE INFORMATION ABOUT CRIMINAL
28 CHARGES THAT HAVE BEEN SHIELDED.

29 ~~(C) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO, FOR EACH~~
30 ~~VIOLATION, A CIVIL PENALTY NOT EXCEEDING \$1,000.~~

31 Article – General Provisions

32 4-327.

1 **(A) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**
 2 **CUSTODIAN SHALL DENY INSPECTION OF CRIMINAL RECORDS AND POLICE RECORDS**
 3 **RELATING TO THE CONVICTION OF A CRIME THAT HAVE BEEN SHIELDED UNDER**
 4 **TITLE 10, SUBTITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE.**

5 **(B) A CUSTODIAN SHALL ALLOW INSPECTION OF SHIELDED RECORDS BY A**
 6 **PERSON AUTHORIZED TO ACCESS SHIELDED RECORDS UNDER § 10-302(B) OF THE**
 7 **CRIMINAL LAW ARTICLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 9 October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.