

# SENATE BILL 201

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(PRE-FILED)

11r0958  
CF HB 1269

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By: **Senators Patterson and Sydnor**

Requested: October 13, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 1, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Records – ~~Waiting Period~~**

3 FOR the purpose of ~~altering the amount of time that a person must wait before seeking~~  
4 ~~expungement of certain records under certain circumstances; requiring the~~  
5 expungement of certain records after a certain period of time under certain  
6 circumstances; requiring a court to send a certain notice under certain  
7 circumstances; requiring a court to notify a certain defendant of certain information  
8 relating to expungement; providing for notice under this Act to be made by mail  
9 under certain circumstances; requiring a court to mail a certain written form to a  
10 certain defendant; and generally relating to expungement of records.

11 ~~BY repealing and reenacting, without amendments,~~  
12 ~~Article – Criminal Procedure~~  
13 ~~Section 10–105(a)~~  
14 ~~Annotated Code of Maryland~~  
15 ~~(2018 Replacement Volume and 2020 Supplement)~~

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Procedure  
18 Section ~~10–105(e)~~ 10–105(b)(1), (d)(1), and (f)  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume and 2020 Supplement)

21 BY adding to

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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 Article – Criminal Procedure  
 2 Section 10–105.1 and 10–105.2  
 3 Annotated Code of Maryland  
 4 (2018 Replacement Volume and 2020 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 6 That the Laws of Maryland read as follows:

7 **Article – Criminal Procedure**

8 10–105.

9 ~~(a) A person who has been charged with the commission of a crime, including a~~  
 10 ~~violation of the Transportation Article for which a term of imprisonment may be imposed,~~  
 11 ~~or who has been charged with a civil offense or infraction, except a juvenile offense, may~~  
 12 ~~file a petition listing relevant facts for expungement of a police record, court record, or other~~  
 13 ~~record maintained by the State or a political subdivision of the State if:~~

14 ~~(1) the person is acquitted;~~

15 ~~(2) the charge is otherwise dismissed;~~

16 ~~(3) a probation before judgment is entered, unless the person is charged~~  
 17 ~~with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211~~  
 18 ~~of the Criminal Law Article;~~

19 ~~(4) a nolle prosequi or nolle prosequi with the requirement of drug or~~  
 20 ~~alcohol treatment is entered;~~

21 ~~(5) the court indefinitely postpones trial of a criminal charge by marking~~  
 22 ~~the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment~~  
 23 ~~on the docket;~~

24 ~~(6) the case is compromised under § 3–207 of the Criminal Law Article;~~

25 ~~(7) the charge was transferred to the juvenile court under § 4–202 of this~~  
 26 ~~article;~~

27 ~~(8) the person:~~

28 ~~(i) is convicted of only one criminal act, and that act is not a crime~~  
 29 ~~of violence; and~~

30 ~~(ii) is granted a full and unconditional pardon by the Governor;~~

31 ~~(9) the person was convicted of a crime or found not criminally responsible~~  
 32 ~~under any State or local law that prohibits:~~

- 1                   (i)     ~~urination or defecation in a public place;~~
- 2                   (ii)    ~~panhandling or soliciting money;~~
- 3                   (iii)   ~~drinking an alcoholic beverage in a public place;~~
- 4                   (iv)    ~~obstructing the free passage of another in a public place or a~~  
5 ~~public conveyance;~~
- 6                   (v)     ~~sleeping on or in park structures, such as benches or doorways;~~
- 7                   (vi)    ~~loitering;~~
- 8                   (vii)   ~~vagrancy;~~
- 9                   (viii) ~~riding a transit vehicle without paying the applicable fare or~~  
10 ~~exhibiting proof of payment; or~~
- 11                   (ix)    ~~except for carrying or possessing an explosive, acid, concealed~~  
12 ~~weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation~~  
13 ~~Article, any of the acts specified in § 7-705 of the Transportation Article;~~
- 14                   (10)   ~~the person was found not criminally responsible under any State or~~  
15 ~~local law that prohibits misdemeanor;~~
- 16                   (i)     ~~trespass;~~
- 17                   (ii)    ~~disturbing the peace; or~~
- 18                   (iii)   ~~telephone misuse;~~
- 19                   (11)   ~~except as provided in subsection (a) 1) of this section, the person was~~  
20 ~~convicted of a crime and the act on which the conviction was based is no longer a crime;~~
- 21                   (12)   ~~the person was convicted of possession of marijuana under § 5-601 of~~  
22 ~~the Criminal Law Article; or~~
- 23                   (13)   ~~the person was convicted of a crime and the conviction was vacated~~  
24 ~~under § 8-302 of this article.~~
- 25                   (e)    (1)    ~~Except as provided in paragraph (2) of this subsection, a petition for~~  
26 ~~expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within~~  
27 ~~[3 years] 18 MONTHS after the disposition, unless the petitioner files with the petition a~~  
28 ~~written general waiver and release of all the petitioner's tort claims arising from the charge.~~

1           ~~(2) A petition for expungement based on a probation before judgment or a~~  
2 ~~stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than~~  
3 ~~the later of:~~

4           ~~(i) the date the petitioner was discharged from probation or the~~  
5 ~~requirements of obtaining drug or alcohol abuse treatment were completed; or~~

6           ~~(ii) [3 years] 18 MONTHS after the probation was granted or stet~~  
7 ~~with the requirement of drug or alcohol abuse treatment was entered on the docket.~~

8           ~~(3) A petition for expungement based on a nolle prosequi with the~~  
9 ~~requirement of drug or alcohol treatment may not be filed until the completion of the~~  
10 ~~required treatment.~~

11           ~~(4) A petition for expungement based on a full and unconditional pardon~~  
12 ~~by the Governor may not be filed later than 10 years after the pardon was signed by the~~  
13 ~~Governor.~~

14           ~~(5) Except as provided in paragraph (2) of this subsection, a petition for~~  
15 ~~expungement based on a stet or a compromise under § 3-207 of the Criminal Law Article~~  
16 ~~may not be filed within [3 years] 18 MONTHS after the stet or compromise.~~

17           ~~(6) A petition for expungement based on the conviction of a crime under~~  
18 ~~subsection (a)(9) of this section may not be filed within [3 years] 18 MONTHS after the~~  
19 ~~conviction or satisfactory completion of the sentence, including probation, that was imposed~~  
20 ~~for the conviction, whichever is later.~~

21           ~~(7) A petition for expungement based on a finding of not criminally~~  
22 ~~responsible under subsection (a)(9) or (10) of this section may not be filed within [3 years]~~  
23 ~~18 MONTHS after the finding of not criminally responsible was made by the court.~~

24           ~~(8) A petition for expungement based on the conviction of a crime under~~  
25 ~~subsection (a)(12) of this section may not be filed within 4 years after the conviction or~~  
26 ~~satisfactory completion of the sentence, including probation, that was imposed for the~~  
27 ~~conviction, whichever is later.~~

28           ~~(9) A court may grant a petition for expungement at any time on a showing~~  
29 ~~of good cause.~~

30           (b) (1) Except as provided in paragraphs (2) and (3) of this subsection AND §  
31 10-105.1 OF THIS SUBTITLE, a person shall file a petition in the court in which the  
32 proceeding began.

33           (d) (1) [The] EXCEPT AS PROVIDED IN § 10-105.1 OF THIS SUBTITLE, THE  
34 court shall have a copy of a petition for expungement served on the State's Attorney.

1 (f) [Unless] EXCEPT AS PROVIDED IN § 10-105.1 OF THIS SUBTITLE AND  
2 UNLESS an order is stayed pending an appeal, within 60 days after entry of the order, every  
3 custodian of the police records and court records that are subject to the order of  
4 expungement shall advise in writing the court and the person who is seeking expungement  
5 of compliance with the order.

6 10-105.1.

7 (A) BEGINNING OCTOBER 1, 2021, ANY POLICE RECORD, COURT RECORD,  
8 OR OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF  
9 THE STATE RELATING TO THE CHARGING OF A CRIME OR A CIVIL OFFENSE UNDER §  
10 5-601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE, INCLUDING A MUST-APPEAR  
11 VIOLATION OF THE TRANSPORTATION ARTICLE, SHALL BE EXPUNGED 3 YEARS  
12 AFTER A DISPOSITION OF THE CHARGE IF NO CHARGE IN THE CASE RESULTED IN A  
13 DISPOSITION OTHER THAN:

14 (1) ACQUITTAL;

15 (2) DISMISSAL;

16 (3) NOT GUILTY; OR

17 (4) NOLLE PROSEQUI, EXCEPT NOLLE PROSEQUI WITH A  
18 REQUIREMENT OF DRUG OR ALCOHOL TREATMENT.

19 (B) FOR A CASE DESCRIBED IN SUBSECTION (A) OF THIS SECTION, THE  
20 COURT SHALL SEND NOTICE OF THE DISPOSITION OF EACH CHARGE IN THE CASE  
21 AND THE DATE ON WHICH EXPUNGEMENT IS REQUIRED TO:

22 (1) THE CENTRAL REPOSITORY;

23 (2) EACH BOOKING FACILITY, LAW ENFORCEMENT UNIT, AND OTHER  
24 UNIT OF THE STATE AND POLITICAL SUBDIVISION OF THE STATE THAT THE COURT  
25 BELIEVES MAY HAVE A RECORD SUBJECT TO EXPUNGEMENT UNDER THIS SECTION;  
26 AND

27 (3) THE PERSON ENTITLED TO EXPUNGEMENT.

28 10-105.2.

29 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AFTER DISPOSITION OF  
30 ALL CHARGES IN A CASE INVOLVING A CRIMINAL OFFENSE OR A CIVIL OFFENSE  
31 UNDER § 5-601(C)(2)(II) OF THE CRIMINAL LAW ARTICLE, INCLUDING A  
32 MUST-APPEAR VIOLATION OF THE TRANSPORTATION ARTICLE, THE COURT SHALL

1 NOTIFY THE DEFENDANT OF THE DEFENDANT’S RIGHT TO EXPUNGEMENT UNDER §  
2 10–105 OF THIS SUBTITLE IF NO CHARGE IN THE CASE RESULTED IN A DISPOSITION  
3 OTHER THAN:

4 (1) ACQUITTAL;

5 (2) DISMISSAL;

6 (3) NOT GUILTY; OR

7 (4) NOLLE PROSEQUI, EXCEPT NOLLE PROSEQUI WITH A  
8 REQUIREMENT OF DRUG OR ALCOHOL TREATMENT.

9 (B) (1) IF THE DEFENDANT IS NOT PRESENT IN COURT FOR THE  
10 DISPOSITION, THE COURT SHALL NOTIFY THE DEFENDANT BY MAIL.

11 (2) THE NOTICE PROVIDED UNDER THIS SECTION SHALL INCLUDE A  
12 WRITTEN FORM FOR GENERAL WAIVER AND RELEASE OF ALL TORT CLAIMS  
13 RELATING TO THE CHARGE OR CHARGES ELIGIBLE FOR EXPUNGEMENT UNDER §  
14 10–105 OF THIS SUBTITLE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.