

SENATE BILL 16

E2

2lr1172

(PRE-FILED)

By: **Senator Jackson**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Mistaken Identity**

3 FOR the purpose of requiring a State’s Attorney to give notice to the court when seeking to
4 dismiss a charge due to mistaken identity; requiring the automatic expungement of
5 records relating to charges that are dismissed or of which a person is acquitted as a
6 result of mistaken identity; requiring a custodian of records to advise the court and
7 the person charged of compliance with an order entered under this Act; and generally
8 relating to the automatic expungement of records relating to charges based on
9 mistaken identity.

10 BY adding to

11 Article – Criminal Procedure

12 Section 10–105.3

13 Annotated Code of Maryland

14 (2018 Replacement Volume and 2021 Supplement)

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

17 **Article – Criminal Procedure**

18 **10–105.3.**

19 (A) IN THIS SECTION, “MISTAKEN IDENTITY” MEANS THE ERRONEOUS
20 CHARGING OF A PERSON FOR A CRIME AS A RESULT OF:

21 (1) MISIDENTIFICATION BY A WITNESS OR LAW ENFORCEMENT;

22 (2) CONFUSION ON THE PART OF A WITNESS OR LAW ENFORCEMENT

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 AS TO THE IDENTITY OF THE PERSON WHO COMMITTED THE CRIME;

2 (3) MISINFORMATION PROVIDED TO LAW ENFORCEMENT AS TO THE
3 IDENTITY OF THE PERSON WHO COMMITTED THE CRIME;

4 (4) A MISTAKE ON THE PART OF A WITNESS OR LAW ENFORCEMENT AS
5 TO THE IDENTITY OF THE PERSON WHO COMMITTED THE CRIME; OR

6 (5) ANOTHER PERSON ASSUMING THE PERSON'S IDENTITY IN
7 VIOLATION OF § 8-301 OF THE CRIMINAL LAW ARTICLE.

8 (B) IF A PERSON IS CHARGED WITH A CRIME AND THE STATE'S ATTORNEY
9 SEEKS TO DISMISS THE CHARGE DUE TO MISTAKEN IDENTITY, THE STATE'S
10 ATTORNEY SHALL GIVE NOTICE TO THE COURT OF THE REASON FOR THE DISMISSAL.

11 (C) A PERSON WHO IS CHARGED WITH A CRIME IS ENTITLED TO THE
12 EXPUNGEMENT OF ANY POLICE RECORD, COURT RECORD, OR OTHER RECORD
13 MAINTAINED BY THE STATE RELATED TO THE CHARGE IF:

14 (1) THE STATE'S ATTORNEY DISMISSES THE CHARGE AND GIVES THE
15 COURT NOTICE UNDER SUBSECTION (B) OF THIS SECTION; OR

16 (2) (I) THE CHARGE IS DISMISSED OR THE PERSON IS ACQUITTED;
17 AND

18 (II) THE COURT MAKES A DETERMINATION THAT THE PERSON
19 WAS CHARGED AS A RESULT OF MISTAKEN IDENTITY.

20 (D) ON RECEIVING NOTICE UNDER SUBSECTION (B) OF THIS SECTION OR
21 MAKING A DETERMINATION UNDER SUBSECTION (C)(2) OF THIS SECTION, THE
22 COURT SHALL PASS AN ORDER REQUIRING THE EXPUNGEMENT OF ALL POLICE
23 RECORDS AND COURT RECORDS ABOUT THE CHARGE.

24 (E) WITHIN 60 DAYS AFTER THE ENTRY OF AN ORDER UNDER SUBSECTION
25 (D) OF THIS SECTION, EVERY CUSTODIAN OF THE POLICE RECORDS AND COURT
26 RECORDS THAT ARE SUBJECT TO THE ORDER OF EXPUNGEMENT SHALL ADVISE IN
27 WRITING THE COURT AND THE PERSON WHO IS THE SUBJECT OF THE EXPUNGED
28 RECORDS OF COMPLIANCE WITH THE ORDER.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2022.