

SENATE BILL 505

E2

3lr2271
CF HB 660

By: **Senator Muse**

Introduced and read first time: February 3, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Convictions**

3 FOR the purpose of authorizing a person to file a petition for expungement of certain
4 misdemeanor and felony convictions; and generally relating to expungement.

5 BY repealing and reenacting, with amendments,
6 Article – Criminal Procedure
7 Section 10–110
8 Annotated Code of Maryland
9 (2018 Replacement Volume and 2022 Supplement)

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

12 **Article – Criminal Procedure**

13 10–110.

14 (a) A person may file a petition listing relevant facts for expungement of a police
15 record, court record, or other record maintained by the State or a political subdivision of
16 the State if the person is convicted of:

17 (1) a misdemeanor that is a violation of:

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (iv) § 3–1508 or § 10–402 of the Courts Article;
- 2 (v) § 14–1915, § 14–2902, or § 14–2903 of the Commercial Law
3 Article;
- 4 (vi) § 5–211 of this article;
- 5 (vii) § 3–203 or § 3–808 of the Criminal Law Article;
- 6 (viii) § 5–601 not involving the use or possession of cannabis, §
7 5–602(b)(1), § 5–618, § 5–619, § 5–620, § 5–703, § 5–708, or § 5–902 of the Criminal Law
8 Article;
- 9 (ix) § 6–105, § 6–108, § 6–205 (fourth degree burglary), § 6–206, §
10 6–303, § 6–306, § 6–307, § 6–402, or § 6–503 of the Criminal Law Article;
- 11 (x) § 7–104, § 7–203, § 7–205, § 7–304, § 7–308, or § 7–309 of the
12 Criminal Law Article;
- 13 (xi) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, §
14 8–503, § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;
- 15 (xii) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;
- 16 (xiii) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the
17 Criminal Law Article;
- 18 (xiv) § 11–303, § 11–306, or § 11–307 of the Criminal Law Article;
- 19 (xv) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, §
20 12–204, § 12–205, or § 12–302 of the Criminal Law Article;
- 21 (xvi) § 13–401, § 13–602, or § 16–201 of the Election Law Article;
- 22 (xvii) § 4–509 of the Family Law Article;
- 23 (xviii) § 18–215 of the Health – General Article;
- 24 (xix) § 4–411 or § 4–2005 of the Housing and Community Development
25 Article;
- 26 (xx) § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, §
27 27–407.1, or § 27–407.2 of the Insurance Article;

1 (xxi) § 8-725.4, § 8-725.5, § 8-725.6, § 8-725.7, § 8-726, § 8-726.1, §
2 8-727.1, or § 8-738.2 of the Natural Resources Article or any prohibited act related to speed
3 limits for personal watercraft;

4 (xxii) § 5-307, § 5-308, § 6-602, § 7-402, or § 14-114 of the Public
5 Safety Article;

6 (xxiii) § 7-318.1, § 7-509, or § 10-507 of the Real Property Article;

7 (xxiv) § 9-124 of the State Government Article;

8 (xxv) § 13-1001, § 13-1004, § 13-1007, or § 13-1024 of the Tax –
9 General Article;

10 (xxvi) § 16-303 **OR § 21-902** of the Transportation Article; or

11 (xxvii) the common law offenses of affray, rioting, criminal contempt,
12 battery, or hindering;

13 (2) a felony that is a violation of:

14 (i) § 7-104 of the Criminal Law Article;

15 (ii) the prohibition against possession with intent to distribute a
16 controlled dangerous substance under § 5-602 of the Criminal Law Article; [or]

17 (iii) § 6-202(a), § 6-203, or § 6-204 of the Criminal Law Article; [or]

18 **(IV) § 3-202 OF THE CRIMINAL LAW ARTICLE, IF THE CRIME DID**
19 **NOT INVOLVE DOMESTIC VIOLENCE AND THE PERSON HAS NO OTHER CONVICTIONS;**

20 **(V) § 3-403 OF THE CRIMINAL LAW ARTICLE; OR**

21 **(VI) § 3-405 OF THE CRIMINAL LAW ARTICLE; OR**

22 (3) an attempt, a conspiracy, or a solicitation of any offense listed in item
23 (1) or (2) of this subsection.

24 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person
25 shall file a petition for expungement in the court in which the proceeding began.

26 (2) (i) Except as provided in subparagraph (ii) of this paragraph, if the
27 proceeding began in one court and was transferred to another court, the person shall file
28 the petition in the court to which the proceeding was transferred.

1 (ii) If the proceeding began in one court and was transferred to the
2 juvenile court under § 4–202 or § 4–202.2 of this article, the person shall file the petition in
3 the court of original jurisdiction from which the order of transfer was entered.

4 (3) (i) If the proceeding in a court of original jurisdiction was appealed
5 to a court exercising appellate jurisdiction, the person shall file the petition in the appellate
6 court.

7 (ii) The appellate court may remand the matter to the court of
8 original jurisdiction.

9 (c) (1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a
10 petition for expungement under this section may not be filed earlier than 10 years after the
11 person satisfies the sentence or sentences imposed for all convictions for which
12 expungement is requested, including parole, probation, or mandatory supervision.

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

18 (3) Except as provided in paragraph (4) of this subsection, a petition for
19 expungement of a felony may not be filed earlier than 15 years after the person satisfies
20 the sentence or sentences imposed for all convictions for which expungement is requested,
21 including parole, probation, or mandatory supervision.

22 (4) A petition for expungement of a conviction of possession with intent to
23 distribute cannabis under § 5–602 of the Criminal Law Article may not be filed earlier than
24 3 years after the person satisfies the sentence or sentences imposed for all convictions for
25 which expungement is requested, including parole, probation, or mandatory supervision.

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

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

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

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

35 (2) The court shall send written notice of the expungement request to each
36 listed victim in the case in which the petitioner is seeking expungement at the address

1 listed in the court file, advising the victim of the right to offer additional information
2 relevant to the expungement petition to the court.

3 (3) Unless the State's Attorney or a victim files an objection to the petition
4 for expungement within 30 days after the petition is served, the court shall pass an order
5 requiring the expungement of all police records and court records about the charge.

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

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

10 (i) that the conviction is eligible for expungement under subsection
11 (a) of this section;

12 (ii) that the person is eligible for expungement under subsection (d)
13 of this section;

14 (iii) that giving due regard to the nature of the crime, the history and
15 character of the person, and the person's success at rehabilitation, the person is not a risk
16 to public safety; and

17 (iv) that an expungement would be in the interest of justice.

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

20 (h) Unless an order is stayed pending appeal, within 60 days after entry of the
21 order, every custodian of the police records and court records that are subject to the order
22 of expungement shall advise in writing the court and the person who is seeking
23 expungement of compliance with the order.

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2023.