

HOUSE BILL 73

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(PRE-FILED)

4r1178
CF SB 454

By: **Delegate Bartlett**

Requested: October 26, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2024

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Completion of Sentence**

3 FOR the purpose of altering certain provisions of law relating to waiting periods for the
4 filing of certain petitions for expungement to authorize the filing of a petition a
5 certain amount of time after the completion of the sentence; requiring a court to
6 determine that a person seeking a certain expungement has paid restitution ordered
7 by the court or does not have the ability to pay the restitution; and generally relating
8 to expungement.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 10–101, 10–105(c)(6) and (8), and 10–110(c) and (f)
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2023 Supplement)

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

16 **Article – Criminal Procedure**

17 10–101.

18 (a) In this subtitle the following words have the meanings indicated.

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 (b) “Central Repository” means the Criminal Justice Information System Central
2 Repository in the Department.

3 (c) **“COMPLETION OF THE SENTENCE” MEANS THE TIME WHEN A SENTENCE**
4 **HAS EXPIRED, INCLUDING ANY PERIOD OF PROBATION, PAROLE, OR MANDATORY**
5 **SUPERVISION.**

6 (D) (1) “Court record” means an official record of a court that the clerk of a
7 court or other court personnel keeps about:

8 (i) a criminal proceeding; or

9 (ii) any other proceeding, except a juvenile proceeding, concerning a
10 civil offense or infraction enacted under State or local law as a substitute for a criminal
11 charge.

12 (2) “Court record” includes:

13 (i) a record of a violation of the Transportation Article for which a
14 term of imprisonment may be imposed; and

15 (ii) an index, docket entry, charging document, pleading,
16 memorandum, transcription of proceedings, electronic recording, order, and judgment.

17 [(d)] (E) “Expunge” means to remove information from public inspection in
18 accordance with this subtitle.

19 [(e)] (F) Except as otherwise provided in this subtitle, “expungement” with
20 respect to a court record or a police record means removal from public inspection:

21 (1) by obliteration;

22 (2) by removal to a separate secure area to which persons who do not have
23 a legitimate reason for access are denied access; or

24 (3) if access to a court record or police record can be obtained only by
25 reference to another court record or police record, by the expungement of it or the part of it
26 that provides access.

27 [(f)] (G) “Law enforcement unit” means a State, county, or municipal police
28 department or unit, the office of a sheriff, the office of a State’s Attorney, the Office of the
29 State Prosecutor, or the Office of the Attorney General of the State.

30 [(g)] (H) “Minor traffic violation” means a nonincarcerable violation of the
31 Maryland Vehicle Law or any other traffic law, ordinance, or regulation.

1 **[(h)] (I)** “Police record” means an official record that a law enforcement unit,
2 booking facility, or the Central Repository maintains about the arrest and detention of, or
3 further proceeding against, a person for:

4 (1) a criminal charge;

5 (2) a suspected violation of a criminal law;

6 (3) a violation of the Transportation Article for which a term of
7 imprisonment may be imposed; or

8 (4) a civil offense or infraction, except a juvenile offense, enacted under
9 State or local law as a substitute for a criminal charge.

10 10–105.

11 (c) (6) A petition for expungement based on the conviction of a crime under
12 subsection (a)(9) of this section may not be filed within 3 years after the [conviction or
13 satisfactory completion of the sentence, including probation, that was imposed for the
14 conviction, whichever is later] **COMPLETION OF THE SENTENCE.**

15 (8) A petition for expungement based on the conviction of a crime under
16 subsection (a)(12) of this section may not be filed before [satisfactory] **THE** completion of
17 the sentence[, including probation, that was imposed for the conviction].

18 10–110.

19 (c) (1) Except as otherwise provided in this subsection, a petition for
20 expungement under this section may not be filed earlier than 5 years after the [person
21 satisfies the sentence or sentences imposed for all convictions for which expungement is
22 requested, including parole, probation, or mandatory supervision] **COMPLETION OF THE**
23 **SENTENCE.**

24 (2) A petition for expungement for a violation of § 3–203 of the Criminal
25 Law Article or common law battery may not be filed earlier than 7 years after the [person
26 satisfies the sentence or sentences imposed for all convictions for which expungement is
27 requested, including parole, probation, or mandatory supervision] **COMPLETION OF THE**
28 **SENTENCE.**

29 (3) A petition for expungement for an offense classified as a domestically
30 related crime under § 6–233 of this article may not be filed earlier than 15 years after the
31 [person satisfies the sentence or sentences imposed for all convictions for which
32 expungement is requested, including parole, probation, or mandatory supervision]
33 **COMPLETION OF THE SENTENCE.**

1 (4) Except as provided in paragraphs (5) and (6) of this subsection, a
2 petition for expungement of a felony may not be filed earlier than 7 years after the [person
3 satisfies the sentence or sentences imposed for all convictions for which expungement is
4 requested, including parole, probation, or mandatory supervision] **COMPLETION OF THE**
5 **SENTENCE.**

6 (5) A petition for expungement of a conviction of possession with intent to
7 distribute cannabis under § 5–602 of the Criminal Law Article may not be filed earlier than
8 3 years after the [person satisfies the sentence or sentences imposed for all convictions for
9 which expungement is requested, including parole, probation, or mandatory supervision]
10 **COMPLETION OF THE SENTENCE.**

11 (6) A petition for expungement of a conviction for § 6–202(a), § 6–203, or a
12 felony that is a violation of § 7–104 of the Criminal Law Article may not be filed earlier
13 than 10 years after the [person satisfies the sentence or sentences imposed for all
14 convictions for which expungement is requested, including parole, probation, or mandatory
15 supervision] **COMPLETION OF THE SENTENCE.**

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

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

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

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

24 (iii) that giving due regard to the nature of the crime, the history and
25 character of the person, and the person’s success at rehabilitation, the person is not a risk
26 to public safety; [and]

27 (iv) THAT THE PERSON HAS PAID ANY MONETARY RESTITUTION
28 ORDERED BY THE COURT IN THE ORIGINAL PROCEEDING OR DOES NOT HAVE THE
29 ABILITY TO PAY THE RESTITUTION; AND

30 (v) that an expungement would be in the interest of justice.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2024.