

SENATE BILL 11

E2
SB 589/20 – JPR

(PRE-FILED)

4lr1220

By: **Senator Carter**

Requested: October 27, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 2024

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Procedure~~ **Department of Public Safety and Correctional Services and**
3 **Maryland Judiciary – Information Technology – Partial Expungement**

4 FOR the purpose of ~~authorizing a person to file a petition for partial expungement for a~~
5 ~~certain eligible offense even if another charge arising out of the same incident,~~
6 ~~transaction, or set of facts is not eligible for expungement; requiring a court to make~~
7 ~~a certain order where partial expungement is impracticable; repealing a provision of~~
8 ~~law prohibiting partial expungement~~ prohibiting the Department of Public Safety
9 and Correctional Services and the Maryland Judiciary from engaging in certain
10 procurement related to the central repository and judicial case management system;
11 and generally relating to partial expungement.

12 BY ~~repealing and reenacting, with amendments,~~ adding to
13 Article – Criminal Procedure
14 Section ~~10-105~~ 10-113
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2023 Supplement)

17 ~~BY repealing~~
18 ~~Article – Criminal Procedure~~
19 ~~Section 10-107~~
20 ~~Annotated Code of Maryland~~
21 ~~(2018 Replacement Volume and 2023 Supplement)~~

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

3 **Article – Criminal Procedure**

4 ~~10-105.~~

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

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

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

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

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

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

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

21 ~~(7) the charge was transferred to the juvenile court under § 4-202 of this~~
22 ~~article;~~

23 ~~(8) the person:~~

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

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

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

29 ~~(i) urination or defecation in a public place;~~

30 ~~(ii) panhandling or soliciting money;~~

- 1 ~~(iii) drinking an alcoholic beverage in a public place;~~
- 2 ~~(iv) obstructing the free passage of another in a public place or a~~
3 ~~public conveyance;~~
- 4 ~~(v) sleeping on or in park structures, such as benches or doorways;~~
- 5 ~~(vi) loitering;~~
- 6 ~~(vii) vagrancy;~~
- 7 ~~(viii) riding a transit vehicle without paying the applicable fare or~~
8 ~~exhibiting proof of payment; or~~
- 9 ~~(ix) except for carrying or possessing an explosive, acid, concealed~~
10 ~~weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation~~
11 ~~Article, any of the acts specified in § 7-705 of the Transportation Article;~~
- 12 ~~(10) the person was found not criminally responsible under any State or~~
13 ~~local law that prohibits misdemeanor:~~
- 14 ~~(i) trespass;~~
- 15 ~~(ii) disturbing the peace; or~~
- 16 ~~(iii) telephone misuse;~~
- 17 ~~(11) except as provided in subsection (a-1) of this section, the person was~~
18 ~~convicted of a crime and the act on which the conviction was based is no longer a crime;~~
- 19 ~~(12) the person was convicted of possession of cannabis under § 5-601 of the~~
20 ~~Criminal Law Article; or~~
- 21 ~~(13) the person was convicted of a crime and the conviction was vacated~~
22 ~~under § 8-302 of this article.~~
- 23 ~~(a-1) An expungement may not be obtained under subsection (a)(11) of this section~~
24 ~~for a conviction for sodomy as that offense existed before October 1, 2020, or a violation of~~
25 ~~§ 3-322 of the Criminal Law Article as that offense existed before October 1, 2023, where~~
26 ~~the offense was committed:~~
- 27 ~~(1) without consent;~~
- 28 ~~(2) with a minor under the age of 16;~~
- 29 ~~(3) with anyone the individual could not marry under § 2-202 of the Family~~
30 ~~Law Article;~~

1 ~~(4) with a mentally incapacitated individual, as defined in § 3-301 of the~~
2 ~~Criminal Law Article;~~

3 ~~(5) with a physically helpless individual, as defined in § 3-301 of the~~
4 ~~Criminal Law Article; or~~

5 ~~(6) with a substantially cognitively impaired individual, as defined in §~~
6 ~~3-301 of the Criminal Law Article.~~

7 ~~(a-2) A person's attorney or personal representative may file a petition, on behalf of~~
8 ~~the person, for expungement under this section if the person died before disposition of the~~
9 ~~charge by nolle prosequi or dismissal.~~

10 ~~(b) (1) Except as provided in paragraphs (2) and (3) of this subsection and §~~
11 ~~10-105.1 of this subtitle, a person shall file a petition in the court in which the proceeding~~
12 ~~began.~~

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

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

19 ~~(3) (i) If the proceeding in a court of original jurisdiction was appealed~~
20 ~~to a court exercising appellate jurisdiction, the person shall file the petition in the appellate~~
21 ~~court.~~

22 ~~(ii) The appellate court may remand the matter to the court of~~
23 ~~original jurisdiction.~~

24 ~~(c) (1) Except as provided in paragraph (2) of this subsection, a petition for~~
25 ~~expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within~~
26 ~~3 years after the disposition, unless the petitioner files with the petition a written general~~
27 ~~waiver and release of all the petitioner's tort claims arising from the charge.~~

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

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

33 ~~(ii) 3 years after the probation was granted or stet with the~~
34 ~~requirement of drug or alcohol abuse treatment was entered on the docket.~~

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

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

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

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

14 ~~(7) A petition for expungement based on a finding of not criminally~~
15 ~~responsible under subsection (a)(9) or (10) of this section may not be filed within 3 years~~
16 ~~after the finding of not criminally responsible was made by the court.~~

17 ~~(8) A petition for expungement based on the conviction of a crime under~~
18 ~~subsection (a)(12) of this section may not be filed before satisfactory completion of the~~
19 ~~sentence, including probation, that was imposed for the conviction.~~

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

22 ~~(d) (1) WHEN TWO OR MORE CHARGES ARISE FROM THE SAME INCIDENT,~~
23 ~~TRANSACTION, OR SET OF FACTS, AND ONE OR MORE OF THE CHARGES ARE NOT~~
24 ~~ELIGIBLE FOR EXPUNGEMENT UNDER THIS SECTION, A PERSON MAY FILE A~~
25 ~~PETITION FOR PARTIAL EXPUNGEMENT FOR THE CHARGES ELIGIBLE FOR~~
26 ~~EXPUNGEMENT UNDER THIS SECTION.~~

27 ~~(2) IF THE PARTIAL EXPUNGEMENT OF A POLICE RECORD, A COURT~~
28 ~~RECORD, OR ANY OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL~~
29 ~~SUBDIVISION OF THE STATE IS IMPRACTICABLE DUE TO THE NARRATIVE OF THE~~
30 ~~STATEMENT OF CHARGES THAT INCLUDES BOTH THE CHARGES THAT ARE ELIGIBLE~~
31 ~~FOR EXPUNGEMENT AND THE CHARGES THAT ARE NOT ELIGIBLE FOR~~
32 ~~EXPUNGEMENT, THE COURT:~~

33 ~~(i) SHALL ORDER THAT THE OFFICIAL RECORD OF THE COURT~~
34 ~~REGARDING THE CHARGES ELIGIBLE FOR EXPUNGEMENT MAY NOT BE INCLUDED;~~

1 ~~1. ON THE PUBLIC WEBSITE MAINTAINED BY THE~~
2 ~~MARYLAND JUDICIARY; AND~~

3 ~~2. WITHIN RECORDS SUBMITTED TO THE CENTRAL~~
4 ~~REPOSITORY; AND~~

5 ~~(H) MAY AUTHORIZE THE STATE OR A POLITICAL SUBDIVISION~~
6 ~~OF THE STATE TO:~~

7 ~~1. MAINTAIN THE WRITTEN RECORD WITHOUT CHANGE;~~
8 ~~AND~~

9 ~~2. LIMIT INSPECTION OF THE WRITTEN RECORD TO A~~
10 ~~CRIMINAL JUSTICE UNIT, AS DEFINED IN § 10-201 OF THIS TITLE, FOR LEGITIMATE~~
11 ~~CRIMINAL JUSTICE PURPOSES.~~

12 ~~(E) (1) Except as provided in § 10-105.1 of this subtitle, the court shall have a~~
13 ~~copy of a petition for expungement served on the State's Attorney.~~

14 ~~(2) Unless the State's Attorney files an objection to the petition for~~
15 ~~expungement within 30 days after the petition is served, the court shall pass an order~~
16 ~~requiring the expungement of all police records and court records about the charge.~~

17 ~~[(e)] (F) (1) If the State's Attorney files a timely objection to the petition, the~~
18 ~~court shall hold a hearing.~~

19 ~~(2) If the court at the hearing finds that the person is entitled to~~
20 ~~expungement, the court shall order the expungement of all police records and court records~~
21 ~~about the charge.~~

22 ~~(3) If the court finds that the person is not entitled to expungement, the~~
23 ~~court shall deny the petition.~~

24 ~~(4) The person is not entitled to expungement if:~~

25 ~~(i) the petition is based on the entry of probation before judgment,~~
26 ~~except a probation before judgment for a crime where the act on which the conviction is~~
27 ~~based is no longer a crime, and the person within 3 years of the entry of the probation before~~
28 ~~judgment has been convicted of a crime other than a minor traffic violation or a crime where~~
29 ~~the act on which the conviction is based is no longer a crime; or~~

30 ~~(ii) the person is a defendant in a pending criminal proceeding.~~

31 ~~[(f)] (G) Except as provided in § 10-105.1 of this subtitle and unless an order is~~
32 ~~stayed pending an appeal, within 60 days after entry of the order, every custodian of the~~
33 ~~police records and court records that are subject to the order of expungement shall advise~~

1 ~~in writing the court and the person who is seeking expungement of compliance with the~~
2 ~~order.~~

3 ~~[(c)] (H) (1) The State's Attorney is a party to the proceeding.~~

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

6 ~~[10-107.~~

7 ~~(a) (1) In this subtitle, if two or more charges, other than one for a minor traffic~~
8 ~~violation or possession of cannabis under § 5-601 of the Criminal Law Article, arise from~~
9 ~~the same incident, transaction, or set of facts, they are considered to be a unit.~~

10 ~~(2) A charge for a minor traffic violation or possession of cannabis under §~~
11 ~~5-601 of the Criminal Law Article that arises from the same incident, transaction, or set of~~
12 ~~facts as a charge in the unit is not a part of the unit.~~

13 ~~(b) (1) If a person is not entitled to expungement of one charge or conviction in~~
14 ~~a unit, the person is not entitled to expungement of any other charge or conviction in the~~
15 ~~unit.~~

16 ~~(2) The disposition of a charge for a minor traffic violation that arises from~~
17 ~~the same incident, transaction, or set of facts as a charge in the unit does not affect any~~
18 ~~right to expungement of a charge or conviction in the unit.]~~

19 10-113.

20 **(A) FOR PURPOSES OF THIS SECTION, "PARTIAL EXPUNGEMENT" MEANS**
21 **THE ABILITY TO EXPUNGE A CHARGE OR CONVICTION THAT IS ELIGIBLE FOR**
22 **EXPUNGEMENT WHEN TWO OR MORE CHARGES ARISE FROM THE SAME INCIDENT,**
23 **TRANSACTION, OR SET OF FACTS AND ONE OR MORE OF THE CHARGES ARE NOT**
24 **ELIGIBLE FOR EXPUNGEMENT UNDER THIS TITLE.**

25 **(B) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**
26 **AND THE MARYLAND JUDICIARY MAY NOT ENGAGE IN ANY PROCUREMENT RELATED**
27 **TO THE CENTRAL REPOSITORY, THE JUDICIAL CASE MANAGEMENT SYSTEM, OR ANY**
28 **SUCCESSOR DATABASE THAT SERVES THE SAME PURPOSE AS THE CENTRAL**
29 **REPOSITORY OR JUDICIAL CASE MANAGEMENT SYSTEM, INCLUDING PROCUREMENT**
30 **OF INFORMATION TECHNOLOGY SERVICES, SUPPLIES, SOFTWARE, OR EQUIPMENT,**
31 **THAT IS NOT COMPATIBLE WITH THE PARTIAL EXPUNGEMENT OF CHARGES WITHIN**
32 **A UNIT OF CHARGES.**

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