

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1030 (Senator Carter)
Judicial Proceedings

Criminal Procedure - Expungement of Records - Good Cause

This bill establishes that, after consideration of specified factors, a court may grant a petition for expungement filed under § 10-110 of the Criminal Procedure Article on a showing of good cause at any time after the person (petitioner) satisfies the sentence or sentences imposed for a conviction for which expungement is requested, including parole, probation, or any other mandatory supervision. A person may petition for expungement on a showing of good cause once every five years for a specific charge. A denied petition for expungement for good cause may not be appealed.

Fiscal Summary

State Effect: The bill is not anticipated to have a material effect on State finances or operations, as discussed below.

Local Effect: The bill is not anticipated to have a material effect on local government finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: The court must consider the following factors when making a determination of good cause: (1) the nature of the crime; (2) the person's character and history; (3) the person's risk to public safety; (4) the person's success at rehabilitation; and (5) the impact the charge has on the person's ability to secure employment, education, housing, public assistance, licensing, and opportunities for economic stability.

Current Law: Other than specified court initiated expungements under § 10-105.1 of the Criminal Procedure Article, to begin the process of expungement, a petitioner must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article, which establishes eligibility for the expungement of records pertaining to a criminal charge or conviction.

Expungements under § 10-110 of the Criminal Procedure Article

Section 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements.

Petitions for expungements under § 10-110 are subject to the waiting periods listed below. These waiting periods begin after the petitioner satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

- Misdemeanor (general): 5 years;
- Felony (general), Second-degree Assault, or Common Law Battery: 7 years;
- Domestically Related Crime (§ 6-233 of the Criminal Procedure Article): 15 years;
- Possession with Intent to Distribute Cannabis: 3 years; and
- Burglary in the First Degree (Breaking and Entering – Theft), Burglary in the Second Degree, or Felony General Theft: 10 years.

If the person is convicted of a new crime during the applicable waiting period, the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement.

A person is not eligible for expungement if the person is a defendant in a pending criminal proceeding.

A State’s Attorney may file a timely objection to the petition for expungement, as specified.

Good Cause Exception

With some exceptions, § 10-105 applies to dispositions other than a conviction, and § 10-110 applies to expungements of convictions. While petitioners under both statutes must comply with specified waiting periods, a court is authorized to grant a petition for expungement filed under § 10-105(c)(9) at any time on a showing of good cause. However, the Court of Special Appeals (now the Appellate Court of Maryland), held that this “good

cause” provision addresses a court’s authority to grant a petition for expungement outside the statutory time requirements *when all other eligibility criteria have been met*. (“...we conclude that Crim. Proc. § 10-105(c)(9) does not grant a court a *carte blanche* to disregard the statutory prerequisites for expungement. Rather, subsection (c)(9) is properly construed as granting courts the discretion to relieve a petitioner of the time requirements set forth in the immediately preceding eight subsections of § 10-105.”) *In re Expungement Petition of Vincent S.*, 255 Md. App. 163, 175 (2022). Determinations of good cause are at the discretion of the court.

Unit Rule

Pursuant to § 10-107 of the Criminal Procedure Article, if two or more charges, other than one for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article, arise from the same incident, transaction, or set of facts, they are considered to be a unit. A charge for a minor traffic violation or possession of cannabis under § 5-601 of the Criminal Law Article that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the unit. If a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit. This “unit rule” applies to expungements under §§ 10-105 and 10-110.

State/Local Fiscal Effect: The courts currently charge a \$30 filing fee for petitions to expunge a guilty disposition (conviction); fee waivers for financial hardship are available. Assuming that the bill does not prompt the filing of petitions by individuals who would not otherwise file a petition at a later date, the bill alters the pace, but not the overall amount, of filing fee revenues. The Judiciary advises that while it cannot predict the exact impact of the bill on additional filings of petitions for expungement, it does not anticipate a significant fiscal or operational impact.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 17 and HB 664 of 2023.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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