

HOUSE BILL 550

E2
HB 1336/20 – JUD

4lr0668

By: ~~Delegate Williams~~ Delegates Williams, Moon, Simmons, Phillips, Roberson,
Taylor, Conaway, and Kaufman

Introduced and read first time: January 24, 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 – ~~Partial Expungement~~ Expungement – Vendor Contracts**

3 FOR the purpose of ~~authorizing a person to file a petition for partial expungement for a~~
4 ~~certain eligible offense even if another charge or conviction arising out of the same~~
5 ~~incident, transaction, or set of facts is not eligible for expungement; requiring a court~~
6 ~~to order partial expungement in certain circumstances; repealing a provision of law~~
7 ~~prohibiting partial expungement; and generally relating to partial expungement~~
8 requiring the Department of Public Safety and Correctional Services to include
9 certain system upgrades to allow for automated expungement of charges and partial
10 expungement of charges in certain vendor contracts; and generally relating to
11 expungement.

12 ~~BY repealing and reenacting, with amendments,~~
13 ~~Article — Criminal Procedure~~
14 ~~Section 10-105 and 10-110~~
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.



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

~~Article—Criminal Procedure~~

~~10-105.~~

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

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

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

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

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

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

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

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

~~(8) the person:~~

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

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

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

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

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

~~(iii) drinking an alcoholic beverage in a public place;~~

~~(iv) obstructing the free passage of another in a public place or a public conveyance;~~

~~(v) sleeping on or in park structures, such as benches or doorways;~~

~~(vi) loitering;~~

~~(vii) vagrancy;~~

~~(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; or~~

~~(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7-705(b)(6) of the Transportation Article, any of the acts specified in § 7-705 of the Transportation Article;~~

~~(10) the person was found not criminally responsible under any State or local law that prohibits misdemeanor;~~

~~(i) trespass;~~

~~(ii) disturbing the peace; or~~

~~(iii) telephone misuse;~~

~~(11) except as provided in subsection (a-1) of this section, the person was convicted of a crime and the act on which the conviction was based is no longer a crime;~~

~~(12) the person was convicted of possession of cannabis under § 5-601 of the Criminal Law Article; or~~

~~(13) the person was convicted of a crime and the conviction was vacated under § 8-302 of this article.~~

~~(a-1) An expungement may not be obtained under subsection (a)(11) of this section for a conviction for sodomy as that offense existed before October 1, 2020, or a violation of § 3-322 of the Criminal Law Article as that offense existed before October 1, 2023, where the offense was committed:~~

~~(1) without consent;~~

~~(2) with a minor under the age of 16;~~

~~(3) with anyone the individual could not marry under § 2-202 of the Family Law Article;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2) (H) [If] SUBJECT TO SUBPARAGRAPH (H) OF THIS PARAGRAPH, IF the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.~~

~~(H) IF THE STATE'S ATTORNEY FILES AN OBJECTION TO THE PETITION ON THE GROUNDS THAT THE PARTIAL EXPUNGEMENT OF A POLICE RECORD, COURT RECORD, OR OTHER RECORD MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE IS IMPRACTICABLE DUE TO THE NARRATIVE OF THE STATEMENT OF CHARGES THAT INCLUDES BOTH THE CHARGES THAT ARE ELIGIBLE FOR EXPUNGEMENT AND THE CHARGES THAT ARE NOT ELIGIBLE FOR EXPUNGEMENT, THE COURT SHALL ORDER THE EXPUNGEMENT OF ALL POLICE RECORDS, COURT RECORDS, AND OTHER RECORDS ABOUT THE CHARGES THAT ARE ELIGIBLE FOR EXPUNGEMENT IF, AFTER A HEARING, THE COURT FINDS AND STATES ON THE RECORD THAT:~~

~~1. THE CHARGES ARE ELIGIBLE FOR EXPUNGEMENT UNDER SUBSECTION (A) OF THIS SECTION;~~

~~2. GIVING DUE REGARD TO THE NATURE OF THE ALLEGED CRIME, THE HISTORY AND CHARACTER OF THE PERSON, AND THE PERSON'S CONDUCT AFTER BEING CHARGED, THE PERSON IS NOT A RISK TO PUBLIC SAFETY; AND~~

~~3. THE EXPUNGEMENT WOULD BE IN THE INTEREST OF JUSTICE.~~

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

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

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

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

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

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

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

~~[10-107.~~

~~(a) (1) In this subtitle, 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.~~

~~(2) 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.~~

~~(b) (1) 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.~~

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

~~10-110.~~

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

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

~~(i) § 6-320 of the Alcoholic Beverages and Cannabis Article;~~

~~(ii) an offense listed in § 17-613(a) of the Business Occupations and Professions Article;~~

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

~~(iv) § 3-1508 or § 10-402 of the Courts Article;~~

~~(v) § 14-1915, § 14-2902, or § 14-2903 of the Commercial Law Article;~~

~~(vi) § 5-211 of this article;~~

~~(vii) § 3-203 or § 3-808 of the Criminal Law Article;~~

~~(viii) § 5-601 not involving the use or possession of cannabis, § 5-602(b)(1), § 5-618, § 5-619, § 5-620, § 5-703, § 5-708, or § 5-902 of the Criminal Law Article;~~

~~(ix) § 6-105, § 6-108, § 6-205 (fourth degree burglary), § 6-206, § 6-301, § 6-303, § 6-306, § 6-307, § 6-402, or § 6-503 of the Criminal Law Article;~~

~~(x) § 7-104, § 7-203, § 7-205, § 7-304, § 7-308, or § 7-309 of the Criminal Law Article;~~

~~(xi) § 8-103, § 8-206, § 8-401, § 8-402, § 8-404, § 8-406, § 8-408, § 8-503, § 8-521, § 8-523, or § 8-904 of the Criminal Law Article;~~

~~(xii) § 9-204, § 9-205, § 9-503, or § 9-506 of the Criminal Law Article;~~

~~(xiii) § 10-110, § 10-201, § 10-402, § 10-404, or § 10-502 of the Criminal Law Article;~~

~~(xiv) § 11-303, § 11-306, or § 11-307 of the Criminal Law Article;~~

~~(xv) § 12-102, § 12-103, § 12-104, § 12-105, § 12-109, § 12-203, § 12-204, § 12-205, or § 12-302 of the Criminal Law Article;~~

~~(xvi) § 13-401, § 13-602, or § 16-201 of the Election Law Article;~~

~~(xvii) § 4-509 of the Family Law Article;~~

~~(xviii) § 18-215 of the Health General Article;~~

~~(xix) § 4-411 or § 4-2005 of the Housing and Community Development Article;~~

~~(xx) § 27-403, § 27-404, § 27-405, § 27-406, § 27-406.1, § 27-407, § 27-407.1, or § 27-407.2 of the Insurance Article;~~

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

~~(xxii) § 10-301, § 10-306, § 10-308.1, § 10-413(e)(1), § 10-418, § 10-502, § 10-611, or § 10-907(a) of the Natural Resources Article;~~

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

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

~~(xxv) § 9-124 of the State Government Article;~~

~~(xxvi) § 13-1001, § 13-1004, § 13-1007, or § 13-1024 of the Tax General Article;~~

~~(xxvii) § 16-303 of the Transportation Article; or~~

~~(xxviii) the common law offenses of affray, rioting, criminal contempt, battery, or hindering;~~

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

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

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

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

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

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

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

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

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

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

~~(c) (1) Except as otherwise provided in this subsection, a petition for expungement under this section may not be filed earlier than 5 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.~~

~~(2) A petition for expungement for a violation of § 3-203 of the Criminal Law Article or common law battery may not be filed earlier than 7 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.~~

~~(3) A petition for expungement for an offense classified as a domestically related crime under § 6-233 of this article may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.~~

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

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

~~(6) A petition for expungement of a conviction for § 6-202(a), § 6-203, or a felony that is a violation of § 7-104 of the Criminal Law Article may not be filed earlier than 10 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.~~

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

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

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

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

~~[(e)] (F) (1) The court shall have a copy of a petition for expungement served on the State's Attorney.~~

~~(2) The court shall send written notice of the expungement request to each listed victim in the case in which the petitioner is seeking expungement at the address listed in the court file, advising the victim of the right to offer additional information relevant to the expungement petition to the court.~~

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

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

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

~~(i) that the conviction is eligible for expungement under [subsection] SUBSECTIONS (a) AND (D) of this section;~~

~~(ii) that the person is eligible for expungement under subsection [(d)] (E) of this section;~~

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

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

~~[(g)] (H) If at a hearing the court finds that a person is not entitled to expungement, the court shall deny the petition.~~

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

~~[(i)] (J) (1) The State's Attorney is a party to the proceeding.~~

~~(2) A party aggrieved by the decision of the court is entitled to the appellate review as provided in the Courts Article. the Department of Public Safety and Correctional Services shall include system upgrades required to allow for automated expungement of charges and partial expungement of charges in any vendor contracts being negotiated at the time this Act takes effect.~~

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