

T. 10, Subt. 1, Refs & Annos, MD CRIM PROC T. 10, Subt. 1, Refs & Annos

West's Annotated Code of Maryland
Criminal Procedure
Title 10. Criminal Records
Subtitle 1. Expungement of Police and Court Records

MD Code, Criminal Procedure, T. 10, Subt. 1, Refs & Annos
[Currentness](#)

MD Code, Criminal Procedure, T. 10, Subt. 1, Refs & Annos, MD CRIM PROC T. 10, Subt. 1, Refs & Annos
Current through legislation effective May 25, 2017, from the 2017 Regular Session of the General Assembly

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West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-101

§ 10-101. Definitions

Effective: October 1, 2007

[Currentness](#)

In general

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

Central Repository

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

Court record

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

(i) a criminal proceeding; or

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

(2) “Court record” includes:

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

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

Expunge

(d) “Expunge” means to remove information from public inspection in accordance with this subtitle.

§ 10-101. Definitions, MD CRIM PROC § 10-101

Expungement

(e) “Expungement” with respect to a court record or a police record means removal from public inspection:

(1) by obliteration;

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

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

Law enforcement unit

(f) “Law enforcement unit” means a State, county, or municipal police department or unit, the office of a sheriff, the office of a State's Attorney, the Office of the State Prosecutor, or the Office of the Attorney General of the State.

Minor traffic violation

(g) “Minor traffic violation” means a nonincarcerable violation of the Maryland Vehicle Law¹ or any other traffic law, ordinance, or regulation.

Police record

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

(1) a criminal charge;

(2) a suspected violation of a criminal law;

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

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

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2002, c. 131, § 1, eff. Oct. 1, 2002](#); [Acts 2007, c. 63, § 1, eff. Oct. 1, 2007](#); [Acts 2007, c. 252, § 1, eff. Oct. 1, 2007](#); [Acts 2007, c. 388, § 1, eff. Oct. 1, 2007](#).

§ 10-101. Definitions, MD CRIM PROC § 10-101

Formerly Art. 27, § 735.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This subsection [(a)] formerly was Art. 27, § 735(a).

The only changes are in style.

This subsection [(b)] formerly was Art. 27, § 735(g).

The only changes are in style.

Defined term: “Department” [§ 1-101](#)

This subsection [(c)] formerly was Art. 27, § 735(b)(1) and (2).

In paragraph (2)(ii) of this subsection, the former erroneous reference to “decrees” is deleted.

The only other changes are in style.

This subsection [(d)] is new language added for clarity.

This subsection [(e)] is new language derived without substantive change from former Art. 27, § 735(c).

In the introductory language of this subsection and item (3) of this subsection, the former references to the “effective” removal of court records are deleted as surplusage.

In item (2) of this subsection, the former reference to the secure area to which “the public” is denied access is deleted as unnecessary in light of the introductory language of this subsection, which defined “expungement” as the removal of records “from public inspection”.

Defined terms: “Court record” [§ 10-101](#)

“Person” [§ 1-101](#)

This subsection [(f)] is new language derived without substantive change from former Art. 27, § 735(d).

In this subsection, the word “unit” is substituted for the former word “agency”. See General Revisor's Note to article.

§ 10-101. Definitions, MD CRIM PROC § 10-101

The Criminal Procedure Article Review Committee notes, for consideration by the General Assembly, that the former definition of “law enforcement agency” did not include the state Prosecutor. The General Assembly may wish to include the state Prosecutor in the definition of “law enforcement unit”.

Defined term: “County” § 1-101

This subsection [(g)] is new language added to avoid repetition of “a nonincarcerable violation of the Maryland Vehicle Law or any other traffic law, ordinance or regulation”.

This subsection [(h)] is new language derived without substantive change from former Art. 27, § 735(e)(1).

Defined terms: “Central Repository” § 10-101

“Law enforcement unit” § 10-101

“Person” § 1-101

REVISOR'S NOTE TO SECTION:

Former Art. 27, § 735(f) which defined the term “crime of violence” as having “the meaning stated in [Art. 27,] § 643B(a)” is deleted as unnecessary because the term “crime of violence” is defined in § 1-101 of this article.

Notes of Decisions (4)

Footnotes

1 [Transportation, § 11-101 et seq.](#)

MD Code, Criminal Procedure, § 10-101, MD CRIM PROC § 10-101

Current through legislation effective May 25, 2017, from the 2017 Regular Session of the General Assembly

§ 10-102. Documents subject to expungement, MD CRIM PROC § 10-102

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-102

§ 10-102. Documents subject to expungement

Effective: October 1, 2007

[Currentness](#)

Police and court records

(a) A police record or a court record is subject to expungement under this subtitle.

Police and court records in existence before July 1, 1975

(b)(1) A court record or a police record that existed before July 1, 1975, and is still maintained, may be expunged under this subtitle.

(2) A person who is entitled to the expungement of a court record or a police record that existed before July 1, 1975, may use the procedures for expungement provided under this subtitle.

(3) The limitation periods provided in [§ 10-105](#) of this subtitle begin when the person becomes entitled to expungement of a court record or a police record that existed before July 1, 1975.

(4) The custodian of court records or police records that were made before July 1, 1975, and that may be expunged under this subtitle:

(i) shall make a reasonable search for a record requested for expungement; but

(ii) need not expunge a court record or a police record that is not found after a reasonable search.

Documents or records outside scope of section

(c) This subtitle does not apply to:

(1) a record about a minor traffic violation;

§ 10-102. Documents subject to expungement, MD CRIM PROC § 10-102

- (2) the published opinion of a court;
- (3) a cash receipt or disbursement record that is necessary for audit purposes;
- (4) a transcript of court proceedings made by a court reporter in a multiple defendant case;
- (5) an investigatory file; or
- (6) a record of the work product of a law enforcement unit that is used solely for police investigation.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2002, c. 131, § 1, eff. Oct. 1, 2002](#); [Acts 2007, c. 63, § 1, eff. Oct. 1, 2007](#).

Formerly Art. 27, §§ 735, 741.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2001, c. 10):

Subsection (a) of this section is new language added to clarify that any court record or police record in existence may be subject to expungement.

Subsection (b) of this section is new language derived without substantive change from former Art. 27, § 741.

Subsection (c) of this section is new language derived without substantive change from former Art. 27, § 735(b)(3) and (e)(2). It is revised as a scope subsection rather than as part of a definition to avoid the illogical assertion that police records and court records “do not include” materials (e.g., investigatory files and police work-product records) that by their everyday meanings are police records and court records.

Defined terms: “Court record” [§ 10-101](#)

“Expunge” [§ 10-101](#)

“Expungement” [§ 10-101](#)

“Minor traffic violation” [§ 10-101](#)

“Person” [§ 1-101](#)

§ 10-102. Documents subject to expungement, MD CRIM PROC § 10-102

“Police record” § 10-101

[Notes of Decisions \(10\)](#)

MD Code, Criminal Procedure, § 10-102, MD CRIM PROC § 10-102

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West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-103

§ 10-103. Expungement of police record when no charge is filed

Effective: October 1, 2007

[Currentness](#)

Arrests, detentions, or confinements not resulting in charge

(a) For arrests, detentions, or confinements occurring before October 1, 2007, a person who is arrested, detained, or confined by a law enforcement unit for the suspected commission of a crime and then is released without being charged with the commission of a crime may request the expungement of the police record.

Time for expungement request

(b) The person shall request expungement within 8 years after the date of the incident.

Investigation and expungement by law enforcement unit

(c)(1) On receipt of a timely filed request, the law enforcement unit promptly shall investigate and try to verify the facts stated in the request.

(2) If the law enforcement unit finds the facts are true, the law enforcement unit shall:

(i) search diligently for each police record about the arrest, detention, or confinement of the person;

(ii) expunge each police record it has about the arrest, detention, or confinement within 60 days after receipt of the request; and

(iii) send a copy of the request and the law enforcement unit's verification of the facts in the request to:

1. the Central Repository;

2. each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest, detention, or confinement; and

3. the person requesting expungement.

Investigation and expungement by Central Repository

(d) Within 60 days after receipt of the request, the Central Repository, booking facility, and any other law enforcement unit shall search diligently for and expunge a police record about the arrest, detention, or confinement.

Denial of request for expungement by law enforcement unit

(e) If the law enforcement unit to which the person has sent a request finds that the person is not entitled to an expungement of the police record, the law enforcement unit, within 60 days after receipt of the request, shall advise the person in writing of:

(1) the denial of the request for expungement; and

(2) the reasons for the denial.

Application and hearing for expungement in District Court

(f)(1)(i) If a request by the person for expungement of a police record is denied under subsection (e) of this section, the person may apply for an order of expungement in the District Court that has proper venue against the law enforcement unit.

(ii) The person shall file the application within 30 days after the written notice of the denial is mailed or delivered to the person.

(2) After notice to the law enforcement unit, the court shall hold a hearing.

(3) If the court finds that the person is entitled to expungement, the court shall order the law enforcement unit to expunge the police record.

(4) If the court finds that the person is not entitled to expungement of the police record, the court shall deny the application.

(5)(i) The law enforcement unit is a party to the proceeding.

(ii) Each party to the proceeding is entitled to appellate review on the record, as provided in the Courts Article for appeals in civil cases from the District Court.

Fees or costs related to expungement

(g) A person who is entitled to expungement under this section may not be required to pay any fee or costs in connection with the expungement.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2002, c. 131, § 1, eff. Oct. 1, 2002](#); [Acts 2007, c. 63, § 1, eff. Oct. 1, 2007](#).

Formerly Art. 27, § 736.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This section is new language derived without substantive change from former Art. 27, § 736.

Throughout this section, the defined term “person” is substituted for the former word “individual” to conform to the terminology used throughout this article.

In subsection (a) of this section, the former reference to a violation of a criminal law “other than a nonincarcerable violation of the vehicle laws of the state or any other traffic law, ordinance, or regulation” is deleted as unnecessary in light of [§ 10-102\(c\)](#) of this subtitle, which states that those items are not covered by this subtitle.

In subsections (b)(2) and (f)(2) of this section, the former references to “proper” legal form and “proper” notice are deleted as unnecessary.

Defined terms: “Central Repository” [§ 10-101](#)

“Expunge” [§ 10-101](#)

“Expungement” [§ 10-101](#)

“Law enforcement unit” [§ 10-101](#)

“Person” [§ 1-101](#)

“Police record” [§ 10-101](#)

Notes of Decisions (1)

§ 10-103. Expungement of police record when no charge is filed, MD CRIM PROC §...

MD Code, Criminal Procedure, § 10-103, MD CRIM PROC § 10-103
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§ 10-103.1. Expungement upon release without charges, MD CRIM PROC § 10-103.1

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-103.1

§ 10-103.1. Expungement upon release without charges

Effective: October 1, 2007

[Currentness](#)

Police records, including photographs and fingerprints

(a) For arrests or confinements occurring on or after October 1, 2007, a person who is arrested or confined by a law enforcement unit and then is released without being charged with the commission of a crime is entitled to expungement of all police records, including photographs and fingerprints, relating to the matter.

Duties of law enforcement unit

(b) Within 60 days after release of a person entitled to expungement of a police record under subsection (a) of this section, the law enforcement unit shall:

- (1) search diligently for and expunge each police record about the arrest or confinement of the person; and
- (2) send a notice of expungement containing all relevant facts about the expungement and underlying arrest or confinement to:
 - (i) the Central Repository;
 - (ii) each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest or confinement; and
 - (iii) the person entitled to expungement.

Duties of Central Repository, booking facility, and other law enforcement units

(c) Within 60 days after receipt of the notice, the Central Repository, a booking facility, and any other law enforcement unit shall:

§ 10-103.1. Expungement upon release without charges, MD CRIM PROC § 10-103.1

- (1) search diligently for and expunge each police record about the arrest or confinement of the person; and
- (2) advise in writing the person entitled to expungement of compliance with the order.

Expungement by obliteration

(d)(1) A police record expunged under this section may not be expunged by obliteration until 3 years after the date of expungement.

(2) During the 3-year period described in paragraph (1) of this subsection, the records shall be removed to a separate secure area to which persons who do not have a legitimate reason for access are denied access.

(3) For purposes of this subsection, a legitimate reason for accessing the records includes using the records for purposes of proceedings relating to the arrest.

Failure of law enforcement unit, booking facility, or Central Repository to expunge record

(e) If a law enforcement unit, a booking facility, or the Central Repository fails to expunge a police record as required under subsection (b) or (c) of this section, the person entitled to expungement may:

- (1) seek redress by means of any appropriate legal remedy; and
- (2) recover court costs.

Fees or costs related to expungement

(f) A person who is entitled to expungement under this section may not be required to pay any fee or costs in connection with the expungement.

Credits

Added by [Acts 2007, c. 63, § 1, eff. Oct. 1, 2007](#).

MD Code, Criminal Procedure, § 10-103.1, MD CRIM PROC § 10-103.1

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§ 10-104. Expungement ordered by District Court, MD CRIM PROC § 10-104

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-104

§ 10-104. Expungement ordered by District Court

[Currentness](#)

Court and police records and other records relating to charges

(a) Unless the State objects and shows cause why a record should not be expunged, if the State enters a nolle prosequi as to all charges in a criminal case within the jurisdiction of the District Court with which a defendant has not been served, the District Court may order expungement of each court record, police record, or other record that the State or a political subdivision of the State keeps as to the charges.

Costs relating to expungement

(b) The District Court may not assess any costs against a defendant for a proceeding under subsection (a) of this section.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2002, c. 131, § 1, eff. Oct. 1, 2002](#).

Formerly Art. 27, § 736A.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This section formerly was Art. 27, § 736A.

In subsection (a) of this section, references to “each” court record and “other” record are substituted for the former references to “any” court record and “any” other record, for clarity.

No other changes are made.

Defined terms: “Court record” [§ 10-101](#)

“Expunge” [§ 10-101](#)

§ 10-104. Expungement ordered by District Court, MD CRIM PROC § 10-104

“Expungement” § 10-101

“Nolle prosequi” § 1-101

“Police record” § 10-101

[Notes of Decisions \(4\)](#)

MD Code, Criminal Procedure, § 10-104, MD CRIM PROC § 10-104

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§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105



KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-105

§ 10-105. Expungement of record after charge is filed

Effective: March 14, 2016

[Currentness](#)

Grounds for expungement

(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, as a substitute for a criminal charge 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:

§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105

- (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; or
- (11) the person was convicted of a crime and the act on which the conviction was based is no longer a crime.

Death of person before disposition of charge

(a-1) 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.

Court in which petition filed

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, 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.

Petition for expungement

(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.

§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105

- (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 court may grant a petition for expungement at any time on a showing of good cause.

Copy of petition for expungement served on State's Attorney

- (d)(1) 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.

Objection to petition by State's Attorney

- (e)(1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.
- (2) 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.
- (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

§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105

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.

Custodian compliance with expungement order

(f) 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.

Appellate review

(g)(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.

Credits

Added by Acts 2001, c. 10, § 2, eff. Oct. 1, 2001. Amended by Acts 2001, c. 7, § 1, eff. Oct. 1, 2001; Acts 2001, c. 35, § 1, eff. Oct. 1, 2001; Acts 2002, c. 19, § 1, eff. April 9, 2002; Acts 2002, c. 131, § 1, eff. Oct. 1, 2002; Acts 2002, c. 213, § 6, eff. Oct. 1, 2002; Acts 2003, c. 121, § 1, eff. Oct. 1, 2003; Acts 2004, c. 237, § 1, eff. Oct. 1, 2004; Acts 2004, c. 238, § 1, eff. Oct. 1, 2004; Acts 2007, c. 388, § 1, eff. Oct. 1, 2007; Acts 2008, c. 615, §§ 1, 2, eff. Oct. 1, 2008; Acts 2008, c. 616, §§ 1, 2, eff. Oct. 1, 2008; Acts 2009, c. 60, § 1, eff. April 14, 2009; Acts 2012, c. 359, § 1, eff. Oct. 1, 2012; Acts 2013, c. 643, § 1, eff. Oct. 1, 2013; Acts 2015, c. 69, § 1, eff. Oct. 1, 2015; Acts 2015, c. 314, § 1, eff. Oct. 1, 2015; Acts 2015, c. 374, § 1, eff. Oct. 1, 2015; Acts 2016, c. 9, § 1, eff. March 14, 2016.

Formerly Art. 27, § 737.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2001, c. 10):

This section is new language derived without substantive change from former Art. 27, § 737(a) and (c) through (l).

In the introductory language of subsection (a) of this section, the former reference to records “pertaining to the charge” is deleted as unnecessary in light of the reference to “relevant facts”.

In subsections (a)(2) and (c)(1) of this section, the former references to a charge that is “quashed” and to a “quashing” of a charge are deleted as obsolete and unnecessary in light of the references to “dismissed” and “dismissal”.

§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105

In subsections (a)(3) and (e)(4)(i) of this section, the phrase “probation before judgment” is substituted for the former phrase “judgment of probation before judgment” for brevity.

In subsection (a)(6) of this section, the cross-reference to “[Article 27, § 12A-5 of the Code](#)” is substituted for the former cross-reference to “§ 766 of this article” for accuracy.

In subsections (a)(8)(ii), (c)(3), and (e)(4) of this section, the former references to the “full and unconditional” character of a pardon are deleted as unnecessary in light of subsection (a)(8) of this section.

In subsections (a)(8)(ii) and (c)(3) of this section, the former phrase “only one criminal act[,] which is not a crime of violence” is deleted as unnecessary in light of subsection (a)(8) of this section.

In subsection (c)(2)(ii) of this section, the former reference to the “entry of judgment” is deleted as unnecessary in light of the reference to the “grant[ing]” of probation before judgment.

In subsection (c)(4) of this section, the reference to “the compromise” is substituted for the former reference to an “order” to conform to the terminology used in this subsection.

In subsection (c)(5) of this section, the former phrase “[n]otwithstanding any other provision of this section” is deleted for brevity.

Also in subsection (c)(5) of this section, the former reference to a showing of good cause “by the petitioner” is deleted as implicit in the reference to a “showing of good cause”.

The Criminal Procedure Article Review Committee notes, for consideration by the General Assembly, that subsection (b)(2) of this section, which states that, if a proceeding is transferred, a person is required to file a petition in the court to which the proceeding was transferred, apparently does not contemplate a proceeding that is transferred to juvenile court.

Defined terms: “Court record” [§ 10-101](#)

“Crime of violence” [§ 1-101](#)

“Expungement” [§ 10-101](#)

“Minor traffic violation” [§ 10-101](#)

“Nolle prosequi” [§ 1-101](#)

“Person” [§ 1-101](#)

“Police record” [§ 10-101](#)

[Notes of Decisions \(27\)](#)

§ 10-105. Expungement of record after charge is filed, MD CRIM PROC § 10-105

MD Code, Criminal Procedure, § 10-105, MD CRIM PROC § 10-105
Current through legislation effective May 25, 2017, from the 2017 Regular Session of the General Assembly

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§ 10-106. Expungement of criminal charge transferred to..., MD CRIM PROC §...

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-106

§ 10-106. Expungement of criminal charge transferred to juvenile court

Effective: October 1, 2015

[Currentness](#)

In general

(a) A person may file, and a court shall grant, a petition for expungement of a criminal charge transferred to the juvenile court under [§ 4-202](#) or [§ 4-202.2](#) of this article.

Filing of petition for expungement

(b) A petition for expungement filed under this section shall be filed in the court of original jurisdiction from which the order of transfer was entered.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2001, c. 415, § 6, eff. Oct. 1, 2001](#); [Acts 2009, c. 712, § 1, eff. Oct. 1, 2009](#); [Acts 2012, c. 563, § 1, eff. Oct. 1, 2012](#); [Acts 2015, c. 69, § 1, eff. Oct. 1, 2015](#).

Formerly Art. 27, § 737.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This section is new language derived without substantive change from former Art. 27, § 737(b).

In the introductory language of this section, the former reference to the ability of a person to file a petition “at any time” after a certain date is deleted as unnecessary.

Defined terms: “Expungement” [§ 10-101](#)

“Person” [§ 1-101](#)

§ 10-106. Expungement of criminal charge transferred to..., MD CRIM PROC §...


[Notes of Decisions \(3\)](#)

MD Code, Criminal Procedure, § 10-106, MD CRIM PROC § 10-106

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 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-107

§ 10-107. Charges arising from same incident, transaction, or set of facts

Effective: October 1, 2008

[Currentness](#)

Charges considered to be a unit

(a)(1) In this subtitle, if two or more charges, other than one for a minor traffic violation, 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 that arises from the same incident, transaction, or set of facts as a charge in the unit is not a part of the unit.

Charges not entitled to expungement

(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.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#). Amended by [Acts 2008, c. 615, § 2, eff. Oct. 1, 2008](#); [Acts 2008, c. 616, § 2, eff. Oct. 1, 2008](#).

Formerly Art. 27, § 738.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This section is new language derived without substantive change from former Art. 27, § 738.

§ 10-107. Charges arising from same incident, transaction, ..., MD CRIM PROC §...

In subsection (b)(2) of this section, the former reference to the fact that a disposition does not affect any right to expungement “if the person is otherwise entitled to an expungement of the charge” is deleted as implied in the reference to the “right to expungement”.

Defined terms: “Expungement” § 10-101

“Minor traffic violation” § 10-101

“Person” § 1-101

[Notes of Decisions \(4\)](#)

MD Code, Criminal Procedure, § 10-107, MD CRIM PROC § 10-107

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West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-108

§ 10-108. Opening, review, or disclosure of expunged records

Currentness

Court order required for person to open, review, or disclose expunged record

(a) A person may not open or review an expunged record or disclose to another person any information from that record without a court order from:

- (1) the court that ordered the record expunged; or
- (2) the District Court that has venue in the case of a police record expunged under § 10-103 of this subtitle.

Notice, hearing, and show of good cause for court order

(b) A court may order the opening or review of an expunged record or the disclosure of information from that record:

- (1) after notice to the person whom the record concerns, a hearing, and the showing of good cause; or
- (2) on an ex parte order, as provided in subsection (c) of this section.

Ex parte orders allowing access to expunged records

(c)(1) The court may pass an ex parte order allowing access to an expunged record, without notice to the person who is the subject of that record, on a verified petition filed by a State's Attorney alleging that:

- (i) the expunged record is needed by a law enforcement unit for a pending criminal investigation; and
 - (ii) the investigation will be jeopardized or life or property will be endangered without immediate access to the expunged record.
- (2) In an ex parte order, the court may not allow a copy of the expunged record to be made.

§ 10-108. Opening, review, or disclosure of expunged records, MD CRIM PROC § 10-108

Fines and penalties for violations

(d)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) In addition to the penalties provided in paragraph (1) of this subsection, an official or employee of the State or a political subdivision of the State who is convicted under this section may be removed or dismissed from public service.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#).

Formerly Art. 27, § 739.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note ([Acts 2001, c. 10](#)):

This section is new language derived without substantive change from former Art. 27, § 739.

In subsection (a) of this section, the former reference to a person “having or acquiring access to an expunged record” is deleted as implicit.

In subsection (d)(2) of this section, the former reference to removal or dismissal from public service “on grounds of misconduct in office” is deleted as unnecessary.

Defined terms: “Expunge” [§ 10-101](#)

“Law enforcement unit” [§ 10-101](#)

“Person” [§ 1-101](#)

[Notes of Decisions \(2\)](#)

MD Code, Criminal Procedure, § 10-108, MD CRIM PROC § 10-108

Current through legislation effective May 25, 2017, from the 2017 Regular Session of the General Assembly

West's Annotated Code of Maryland
Criminal Procedure (Refs & Annos)
Title 10. Criminal Records (Refs & Annos)
Subtitle 1. Expungement of Police and Court Records (Refs & Annos)

MD Code, Criminal Procedure, § 10-109

§ 10-109. Disclosure of expunged information prohibited

Currentness

Applications, interviews, or other means

(a)(1) Disclosure of expunged information about criminal charges in an application, interview, or other means may not be required:

(i) by an employer or educational institution of a person who applies for employment or admission; or

(ii) by a unit, official, or employee of the State or a political subdivision of the State of a person who applies for a license, permit, registration, or governmental service.

(2) A person need not refer to or give information concerning an expunged charge when answering a question concerning:

(i) a criminal charge that did not result in a conviction; or

(ii) a conviction that the Governor pardoned.

(3) Refusal by a person to disclose information about criminal charges that have been expunged may not be the sole reason for:

(i) an employer to discharge or refuse to hire the person; or

(ii) a unit, official, or employee of the State or a political subdivision of the State to deny the person's application.

Fines and penalties for violations

(b)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both for each violation.

§ 10-109. Disclosure of expunged information prohibited, MD CRIM PROC § 10-109

(2) In addition to the penalties provided in paragraph (1) of this subsection, an official or employee of the State or a political subdivision of the State who is convicted under this section may be removed or dismissed from public service.

Credits

Added by [Acts 2001, c. 10, § 2, eff. Oct. 1, 2001](#).

Formerly Art. 27, § 740.

Editors' Notes

LEGISLATIVE NOTES

Revisor's Note (Acts 2001, c. 10):

This section is new language derived without substantive change from former Art. 27, § 740.

In subsections (a)(3)(ii) and (b)(2) of this section, the phrase “political subdivision of the state” is substituted for the former phrase “local governments” to conform to the terminology used elsewhere in this article.

In subsection (a) of this section, the defined term “person” is substituted for the former, narrow reference to “applicant” to clarify that all of the provisions of this subsection apply also to persons already employed. This clarification is supported by subsection (a)(3)(i) of this section, which prohibits an employer to “discharge” a person.

In subsection (a)(1)(ii) and (3)(ii) of this section, the word “unit” is substituted for the former word “agency”. See General Revisor's Note to article.

In subsection (a)(1) of this section, the former reference to “concerning criminal charges against him” is deleted as surplusage.

The Criminal Procedure Article Review Committee notes, for consideration by the General Assembly, that in subsection (a)(3) of this section, there is no prohibition concerning educational institutions that is analogous to the prohibition in subsection (a)(3)(i) of this section, which bars employers from discharging or refusing to hire persons for failure to disclose criminal charges that have been expunged.

Defined terms: “Expunge” [§ 10-101](#)

“Person” [§ 1-101](#)

MD Code, Criminal Procedure, § 10-109, MD CRIM PROC § 10-109

Current through legislation effective May 25, 2017, from the 2017 Regular Session of the General Assembly