

T. 10, Subt. 3, Refs & Annos, MD CRIM PROC T. 10, Subt. 3, Refs & Annos

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West's Annotated Code of Maryland  
Criminal Procedure  
Title 10. Criminal Records  
Subtitle 3. Shielding

MD Code, Criminal Procedure, T. 10, Subt. 3, Refs & Annos  
[Currentness](#)

MD Code, Criminal Procedure, T. 10, Subt. 3, Refs & Annos, MD CRIM PROC T. 10, Subt. 3, Refs & Annos  
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§ 10-301. Definitions, MD CRIM PROC § 10-301

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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 3. Shielding (Refs & Annos)

MD Code, Criminal Procedure, § 10-301

§ 10-301. Definitions

Effective: October 1, 2015

[Currentness](#)

**In general**

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

**Court record**

(b) “Court record” has the meaning stated in [§ 10-101](#) of this title.

**Criminal justice unit**

(c) “Criminal justice unit” has the meaning stated in [§ 10-201](#) of this title.

**Police record**

(d) “Police record” has the meaning stated in [§ 10-101](#) of this title.

**Shield**

(e) “Shield” means to render a court record and police record relating to a conviction of a crime inaccessible by members of the public.

**Shieldable conviction**

(f) “Shieldable conviction” means a conviction of one of the following crimes:

(1) disorderly conduct under [§ 10-201\(c\)\(2\)](#) of the [Criminal Law Article](#);

(2) disturbing the peace under [§ 10-201\(c\)\(4\)](#) of the [Criminal Law Article](#);

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- (3) failure to obey a reasonable and lawful order under [§ 10-201\(c\)\(3\) of the Criminal Law Article](#);
- (4) malicious destruction of property in the lesser degree under [§ 6-301 of the Criminal Law Article](#);
- (5) trespass on posted property under [§ 6-402 of the Criminal Law Article](#);
- (6) possessing or administering a controlled dangerous substance under [§ 5-601 of the Criminal Law Article](#);
- (7) possessing or administering a noncontrolled substance under [§ 5-618\(a\) of the Criminal Law Article](#);
- (8) use of or possession with intent to use drug paraphernalia under [§ 5-619\(c\)\(1\) of the Criminal Law Article](#);
- (9) driving without a license under [§ 16-101 of the Transportation Article](#);
- (10) driving while privilege is canceled, suspended, refused, or revoked under [§ 16-303 of the Transportation Article](#);
- (11) driving while uninsured under [§ 17-107 of the Transportation Article](#); or
- (12) a prostitution offense under [§ 11-306\(a\)\(1\) of the Criminal Law Article](#) if the conviction is for prostitution and not assignation.

**Unit**

- (g) “Unit” means two or more convictions that arise from the same incident, transaction, or set of facts.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#).

MD Code, Criminal Procedure, § 10-301, MD CRIM PROC § 10-301

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Subtitle 3. Shielding (Refs & Annos)

MD Code, Criminal Procedure, § 10-302

§ 10-302. Access to shielded records

Effective: October 1, 2015

[Currentness](#)

**Application of subtitle**

(a) This subtitle does not apply to a conviction of a domestically related crime under [§ 6-233](#) of this article.

**In general**

(b) A shielded record shall remain fully accessible by:

- (1) criminal justice units for legitimate criminal justice purposes;
- (2) prospective or current employers or government licensing agencies that are subject to a statutory or regulatory requirement or authorization to inquire into the criminal background of an applicant or employee for purposes of carrying out that requirement or authorization;
- (3) a person that is authorized or required to inquire into an individual's criminal background under [§ 5-561\(b\), \(c\), \(d\), \(e\), \(f\), or \(g\) of the Family Law Article](#);
- (4) the person who is the subject of the shielded record and that person's attorney;
- (5) health occupations boards established under the Health Occupations Article;
- (6) the Natalie M. LaPrade Medical Cannabis Commission established under Title 13, Subtitle 33 of the Health--General Article;
- (7) a person that uses volunteers who care for or supervise children;

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(8) a person that attests under the penalty of perjury that the person employs or seeks to employ an individual to care for or supervise a minor or vulnerable adult, as defined in [§ 3-604 of the Criminal Law Article](#); and

(9) a person who is accessing a shielded record on behalf of and with written authorization from a person or governmental entity described in items (1) through (8) of this subsection.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#).

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Subtitle 3. Shielding (Refs & Annos)

MD Code, Criminal Procedure, § 10-303

§ 10-303. Petition to shield records

Effective: October 1, 2015

[Currentness](#)

#### **Timing of petition**

(a) A person may petition the court to shield the person's court and police records relating to one or more shieldable convictions entered in the circuit court or the District Court in one county no earlier than 3 years after the person satisfies the sentence or sentences imposed for all convictions for which shielding is requested, including parole, probation, or mandatory supervision.

#### **Subsequent convictions**

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

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

#### **Units**

(c) If a person is not eligible for shielding of one conviction in a unit, the person is not eligible for shielding of any other conviction in the unit.

#### **Service on State's Attorney**

(d)(1) The court shall have a copy of a petition for shielding served on the State's Attorney.

(2) Unless the State's Attorney files an objection to the petition for shielding within 30 days after the petition is served, the court may order the shielding of all police records and court records relating to the conviction or convictions after taking into consideration any objections or additional information provided by the State's Attorney or the victim.

#### **Hearings**

§ 10-303. Petition to shield records, MD CRIM PROC § 10-303

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- (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 shielding, the court shall order the shielding of all police records and court records relating to the conviction or convictions.
- (3) The court may grant a petition under this subsection for good cause.
- (4) A person may be granted only one shielding petition over the lifetime of the person.

**Notice to victims**

(f) The court shall send written notice of the proposed action to all listed victims in the case in which the petitioner is seeking shielding at the address listed in the court file advising the victim or victims of the right to offer additional information relevant to the shielding petition to the court.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#).

MD Code, Criminal Procedure, § 10-303, MD CRIM PROC § 10-303

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§ 10-304. Reference to shielded records prohibited on..., MD CRIM PROC §...

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MD Code, Criminal Procedure, § 10-304

§ 10-304. Reference to shielded records prohibited on Maryland Judiciary Case Search

Effective: October 1, 2015

[Currentness](#)

The Maryland Judiciary Case Search may not in any way refer to the existence of specific records shielded in accordance with this subtitle.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#).

MD Code, Criminal Procedure, § 10-304, MD CRIM PROC § 10-304

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§ 10-305. Application of Criminal Procedure § 10-105(e)(4)(ii)1, MD CRIM PROC § 10-305

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MD Code, Criminal Procedure, § 10-305

§ 10-305. Application of Criminal Procedure § 10-105(e)(4)(ii)1

Effective: March 14, 2016

[Currentness](#)

A conviction that has been shielded under this subtitle may not be considered a conviction for purposes of [§ 10-105\(e\)\(4\)\(i\)](#) of this title.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#). Amended by [Acts 2016, c. 8, § 1, eff. March 14, 2016](#).

MD Code, Criminal Procedure, § 10-305, MD CRIM PROC § 10-305

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MD Code, Criminal Procedure, § 10-306

§ 10-306. Disclosure of shielded records

Effective: October 1, 2015

[Currentness](#)

**In general**

(a) A person authorized to access a shielded record under [§ 10-302\(b\)](#) of this subtitle may not disclose any information from a shielded record to a person who is not authorized to access shielded records under [§ 10-302\(b\)](#) of this subtitle.

**Employment, educational, and governmental entities**

(b)(1) Except as provided in [§ 10-302\(b\)](#) of this subtitle, an employer may not:

(i) require a person who applies for employment to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

(ii) discharge or refuse to hire a person solely because the person refused to disclose information about criminal charges that have been shielded.

(2) An educational institution may not:

(i) require a person who applies for admission to the institution to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

(ii) expel or refuse to admit a person solely because the person refused to disclose information about criminal charges that have been shielded.

(3) Except as provided in [§ 10-302\(b\)](#) of this subtitle, a unit, an official, or an employee of the State or a political subdivision of the State may not:

(i) require a person who applies for a permit, registration, or government service to disclose shielded information about criminal charges in an application, an interview, or otherwise; or

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(ii) deny a person's application for a permit, registration, or government service solely because the person refused to disclose information about criminal charges that have been shielded.

**Credits**

Added by [Acts 2015, c. 313, § 1, eff. Oct. 1, 2015](#).

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