



ACCESS TO CRIMINAL RECORDS AND EXPUNGEMENT IN MARYLAND: TIPS FOR ATTORNEYS AND ADVOCATES



Why is Criminal Record Relief Important?

Every Maryland arrest – regardless of whether it leads to formal charges or a conviction – is a matter of public record. The public may currently access many criminal court records through the Maryland Judiciary’s Case Search website and through background checks from the Maryland Criminal Justice Information System (CJIS), the FBI, and private agencies.

Criminal records may prevent an individual from getting a job or securing an apartment, factor adversely in child custody proceedings, and negatively affect eligibility for loans, credit, etc. For survivors of human trafficking, criminal records may greatly impact the survivor’s ability to heal and to avoid continued exploitation.

Criminal record relief through expungement, shielding, and vacatur can reduce the collateral consequences of involvement in the criminal legal system. For example, disclosure of expunged criminal records may not be required on job applications or during interviews. While this tip sheet only focuses on expungement, further information about vacatur of criminal records for trafficking survivors can be accessed by visiting <https://mvlslaw.org/http-resources-2/>

What is Expungement?

Expungement refers to the removal of police and court records from public inspection. Records of certain criminal and incarcerable traffic offenses can be expunged, while non-incarcerable traffic offenses are automatically expunged after three years. Determining if a record is eligible for expungement can be challenging given the differing requirements for types of case outcomes and offenses. While this tip sheet contains information on the availability of expungement for certain broad categories of criminal records, you can find more detailed information on expungement at: www.mvlslaw.org/ht

Expungement of Non-Convictions (MD Crim. Proc. § 10-105) :

- If a criminal case ends in a dismissal, a finding of not guilty, or a *nolle pross*, the record is eligible to be expunged immediately, provided the petitioner signs a waiver of liability giving up their legal right to sue for damages associated with that case. If the petitioner does not wish to sign the waiver, they must wait three years to expunge the charge.
- If the case ends in a stet, the record may be expunged after a three-year waiting period.
- If the case ends in a probation before judgment (PBJ), the record may be expunged after a three-year waiting period or the successful completion of the period of probation assigned by the judge, whichever is longer.
- **Please note** that if there is a subsequent conviction within three years of the date the PBJ is entered by the court, it is no longer eligible for expungement. If the PBJ is for a DUI, it cannot currently be expunged under any circumstances.

Automatic Expungement in Maryland (MD Crim. Proc. § 10-105.1):

- For cases that are closed **on or after** October 1st, 2021, certain non-convictions will now be expunged *automatically* three years after the date the case is closed.
- **This is not retroactive**, meaning that any case that is closed *before* October 1, 2021 **will not be automatically expunged** and requires submitting an expungement petition to the court for review.
- Similarly, automatic expungement **does not apply** to cases ending in a stet or a PBJ. Expunging these types of charges also requires submitting an expungement petition to the court.
- Automatic expungement **also does not apply** if the non-conviction is part of a unit of charges that includes a conviction. In this case, the non-conviction will only be shielded from public view, not automatically expunged, and will only become eligible for expungement if and when the conviction does.

Expungement of Convictions (MD Crim. Proc. § 10-110):

- The Justice Reinvestment Act, enacted in 2017, provides for the expungement of certain misdemeanor and felony convictions. Petitioners are required to wait 10 years after the date of conviction for expungement of any eligible misdemeanor, and 15 years for expungement of eligible felonies, 2nd degree assault, or any otherwise eligible crime related to an incident of domestic violence. The waiting period does not begin until completion of any sentence imposed by the court, **including** parole, probation, or mandatory supervision.
- The law also has a subsequent conviction provision, meaning that the otherwise expungeable conviction may become *ineligible* for expungement if the individual is convicted of any crime, from the date of the original conviction through the entirety of the waiting period. However, the original conviction may again become eligible for expungement if and when the subsequent conviction does.
- Analysis of what convictions are eligible for expungement can be very challenging given the limited number and types of offenses that can be expunged, legislative updates to Maryland’s expungement laws, and the subsequent conviction provision. We strongly urge consultation with an attorney prior to filing for expungement, particularly if the individual has multiple convictions on their record.

Expunging Other Types of Cases:

- Convictions for crimes that are no longer a crime and adult criminal charges transferred to Juvenile Court are immediately eligible for expungement.
- All convictions for marijuana possession are eligible for expungement 4 years from the date of conviction, including completion of the sentence and any mandatory probation.
- Convictions for “Nuisance Crimes” (e.g. loitering, vagrancy, panhandling, etc.) can be expunged three years after the date of conviction **or** the completion of the sentence, whichever is longer.

Accessing Criminal Records in Maryland:

Maryland Judiciary Case Search

- Case Search is a free, publicly searchable database of many Maryland arrest and court records in criminal, civil, and traffic cases. Case search may be accessed at <http://casesearch.courts.state.md.us/casesearch>.
- Records are searchable by name, date of birth, or case number. **Please note** that the information on Case Search may be incorrect or duplicative due to misspellings, incorrect dates of birth, or incomplete demographic or case information.
- Case Search is currently shielding any charges that ended in a dismissal, a finding of not guilty, or a *nolle pross* from public view, meaning that these cases or charges (if there is a case that contains both convictions *and* non-convictions) are no longer visible to the public on the database.
- **Please note** however that all shielded cases/charges still legally “exist” and will show up on other types of background checks.

Criminal Justice Information System

- A CJIS Report will include any alleged criminal activity that involved being fingerprinted – even cases that did not end in a conviction and/or are shielded on Case Search (see above).
- To obtain a background check from CJIS, you can make an appointment with any authorized location that provides fingerprinting services in Maryland, including at the CJIS main office on Reisterstown Road in Northwest Baltimore, or through private providers. A list of these providers can be accessed at <https://www.dpscs.state.md.us/publicservs/fingerprint.shtml>.

FBI Background Check – Nationwide Record Search

- An FBI Report will include a record of criminal legal involvement in any of the 50 states and Washington D.C. This is the most comprehensive criminal history search and a good option if an individual has had encounters with law enforcement in multiple states.
- Findings can be inconsistent with state records, as the federal database reflects only the information that has been provided to the federal government by each individual state.
- The HTPP used Fieldprint to access client FBI Reports, which can be accessed at <https://www.fieldprint.com/fieldprint-websites/>. Obtaining a report through Fieldprint costs \$50 and results are usually available within a day.

Courthouse and Maryland Electronic Courts (MDEC) Searches

- Individuals in Maryland can also visit the Clerk’s Office in the courthouse in the jurisdiction where their case was heard to request a copy of their case records. However, it is recommended that the individual call ahead of time to ask where the court records are located.
- In counties that have e-filing, an individual seeking expungement can ask their attorney to access records via an MDEC Smart Search.

This tip sheet was created as part of the **Human Trafficking Prevention Project (HTPP)**, a collaboration between the University of Baltimore School of Law and Maryland Volunteer Lawyers Service (MVLS). Recommendations on this tip sheet are adapted from the HTPP webinar:

“Records Disappearing? Auto Expungement? Updates on Maryland Judiciary Case Search and Criminal Record Relief in Maryland,” featuring guest presenter Chris Sweeney, manager of MVLS’ Workforce Development Program. This webinar is available for viewing at: <https://mvlslaw.org/http-resources-2/>

For more information about the HTPP, please visit the website above or contact:

HTPP Director Jessica Emerson at jemerson@ubalt.org or 410-837-4566
HTPP Manager Heather Heiman at hheiman@mvlslaw.org or 443-451-4075



DO YOU NEED HELPS?

Have you ever traded sex?
Do you have a criminal record as a result?

You have legal rights, and we can help.

MVLS
EST. 1981
MARYLAND VOLUNTEER
LAWYERS SERVICE
—and Justice for All—

Program in Partnership with:
ub SCHOOL OF LAW

It is illegal for someone to pressure you into sex work by using physical force, threats, lies, or by taking advantage of your need for food, shelter, drugs or other survival needs.

The Human Trafficking Prevention Project can provide free legal help with criminal record relief, family law matters, consumer debt, landlord/tenant disputes, name and gender marker change, and other civil legal issues.

📞 **443-451-4086**
✉️ **http@mvlslaw.org**
🌐 **mvlslaw.org/ht**