Expungement Law Changes from the 2025 General Assembly Session

Overview and Practice Tips

MARYLAND VOLUNTEER LAWYERS SERVICE

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Background – *In re Abhishek I. (2022)*

- Interpretation of Criminal Procedure Article § 10-110(c)(1): a petition for expungement under this section 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.
- With the *Abhishek* case, the court held that "Where appellant violated the terms of his probation, and the court closed his probation unsatisfactorily, he did not "satisfy" his sentence of probation."
- **Result: Anyone who had their probation closed "unsatisfactorily" was permanently barred from seeking expungement**

Background – *In re Abhishek I. (2022)*

- **This decision was a very limiting interpretation of the statute** – resulting in situations where individuals who were on probation, received a violation, yet went on to complete the original and any additional sentence or period of probation, became ineligible for the expungement they were otherwise qualified for
- **This outcome, a violation of probation, is quite common** – by some estimates, almost half of probationers violate
- A “violation” need not be for commission of a new crime – can be for missing an appointment or other “technical” violations
- Additional effects – created confusion and challenges re documenting if sentence was closed satisfactorily

Expungement Reform Act - Overview

Expungement Reform Act of 2025 (Governor's Bill)

- Overrides *Abhishek* decision – violation of probation no longer barrier to expungement effective Oct. 1, 2025
- Adds three eligible convictions to 10-110
  - Driving w/o license
  - Cashing bad check
  - Using stolen credit card
- Hides stets as well as pardoned cannabis offenses from Maryland Judiciary Case Search starting in 2026

Abhishek Override

- Legislation adds Crim Pro 10-101(c): “COMPLETION OF THE SENTENCE” MEANS THE TIME WHEN A SENTENCE HAS EXPIRED, INCLUDING ANY PERIOD OF PROBATION, PAROLE, OR MANDATORY SUPERVISION.
- All language in Crim Pro 10-105 and 10-110 pertaining to when an expungement petition may be filed has been changed to “after the completion of the sentence”
- All other existing criteria for eligibility remain unchanged
- Under 10-110 (expungement of convictions), the court must consider the petitioner’s success at probation, and whether the petitioner has paid restitution or does not have the ability to pay

Abhishek Override

- Legislative intent in Governor's Bill was to override *Abhishek*. Interpretations from state's attorneys and judges remain to be seen.
- Effective October 1st, 2025

Practice Tips:

- Please review cases/help spread the word to clients!
- Prep expungement petitions as normal – even if a petition was denied under Abhishek, should be without prejudice/no problem re-filing
- Please share with MVLS if you run into issues!

Expungement: New Eligible Convictions

Three new convictions added to Criminal Procedure 10-110:

- Driving without a license (Transportation Article § 16–101)
- Cashing a bad check (Criminal Law Article § 8–106)
  - Both misdemeanor and felony levels
- Credit card theft (Criminal Law Article § 8–204)
  - Stealing card or knowingly using stolen card

- All existing criteria for expungement of misdemeanor and felony convictions will still apply
- Effective October 1st, 2025

Case Search Changes

The following charges will not appear on Maryland Judiciary Case Search effective January 31, 2026:

- Charges resulting in a stet disposition
- Cannabis charges that were pardoned by Governor Moore's mass pardon in 2024 - including convictions or PBJs for cannabis possession or possession of cannabis-related paraphernalia

- This expands on the case search changes from 2021, where nolle prosequi, acquittal, not guilty, and dismissal were hidden
- These charges ***are not expunged***, only hidden on Case Search. Expungement should still be filed.
- Charges will still appear on MDEC Smart Search

Crimes that are No Longer Crimes

SB356 / HB39 – Repeal of Prohibition of Transmission of HIV

- The original law, which criminalized transmission of HIV, was enacted based on misinformation about disease treatment, spread, and prevention, and had a discriminatory impact on the LGBTQ+ community.
- General Assembly passed the above legislation repealing the law during the 2025 session
- As of Oct. 1, 2025, any convictions under this law will be immediately eligible for expungement

Reminder: Automatic Expungement

- Cases with a disposition of not guilty, dismissal, acquittal, and nolle pros occurring after October 1st, 2021, are automatically expunged after three years
- Expungements can still be filed prior to the three-year mark with a General Waiver and Release – MD Court Form CC-DC-CR-072C updated January 2025 combines petition and waiver
- Occurs relatively quickly after the eligible date, but issues with mail/orders from the court reaching recipients
- Anyone who is not a US citizen – strongly urged to get certified copies of the records (charging documents, dispositions, orders) prior to automatic expungement occurring

MVLS Expungement Resources

Need help with an expungement case??

MVLS has an extensive library of expungement and criminal record relief resources, including:

- Webinars
- Substantive and case law
- Procedural guides and online tools

https://mvlslaw.org/volunteer/criminal-record-resources/

Thank you!

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