EXPUNGEMENT WEBINAR: POST-*ABHISHEK* AND LEGISLATIVE UPDATES

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ABHISHEK DECISION

- Interpreted the language in Criminal Procedure 10-110 related to when waiting periods begin for expungement of convictions
- Court held that the language “satisfies the sentence or sentences imposed” means a person cannot violate their original terms of probation and still be eligible for expungement
- The waiting period for expungement never begins because the sentence imposed was not “satisfied”
- People left with permanent criminal record for minor offenses otherwise deemed eligible

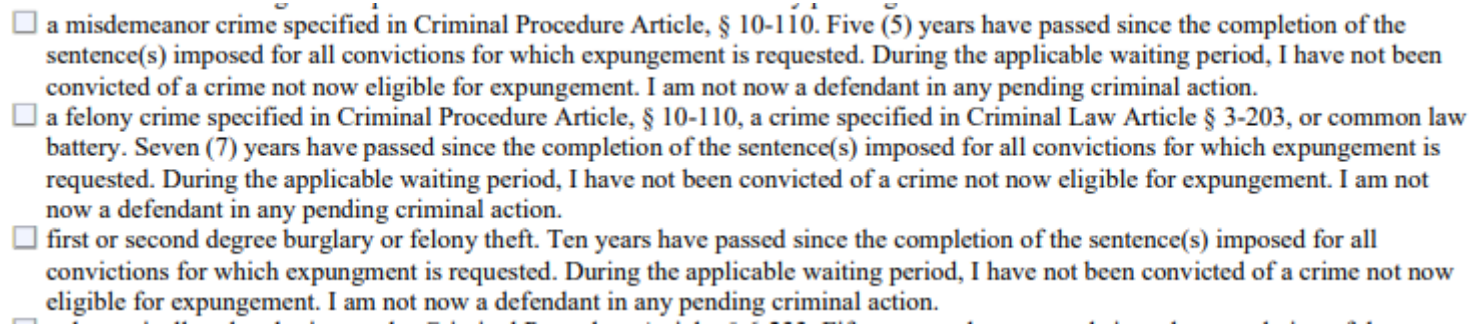
EXPUNGEMENT REFORM ACT OF 2025

- Went into effect October 1, 2025
- Overrides *Abhishek* decision
  - Replaces language requiring a petitioner "satisfy" their sentence with the phrase "after completion of the sentence"
  - i.e. all eligible conviction waiting periods are defined as 5, 7, or 10 years after the completion of the sentence
  - "Competition of the sentence" is defined as "the time when a sentence has expired, including any period of probation, parole, or mandatory supervision"
- If the State objects to expungement, court must weigh factors and find the petitioner is not a risk to public safety
  - Factors are the nature of the crime, the history and character of the person**, the person's success at probation, parole, or supervision**, and the person's success at rehabilitation
  - Bill also added payment of restitution or inability to pay as factors to consider

POST-*ABHISHEK* EXPUNGEMENTS: PRACTICE TIPS

COURT FORMS UPDATED

- Be sure to use the latest version of the Courts' expungement petition
- Older versions contain the phrase "satisfactory completion of sentence"
- The form is not the law, but signers are affirming under penalty of perjury that the information in the petition is true



☐ a misdemeanor crime specified in Criminal Procedure Article, § 10-110. Five (5) years have passed since the completion of the sentence(s) imposed for all convictions for which expungement is requested. During the applicable waiting period, I have not been convicted of a crime not now eligible for expungement. I am not now a defendant in any pending criminal action.

☐ a felony crime specified in Criminal Procedure Article, § 10-110, a crime specified in Criminal Law Article § 3-203, or common law battery. Seven (7) years have passed since the completion of the sentence(s) imposed for all convictions for which expungement is requested. During the applicable waiting period, I have not been convicted of a crime not now eligible for expungement. I am not now a defendant in any pending criminal action.

☐ first or second degree burglary or felony theft. Ten years have passed since the completion of the sentence(s) imposed for all convictions for which expungment is requested. During the applicable waiting period, I have not been convicted of a crime not now eligible for expungement. I am not now a defendant in any pending criminal action.

PRACTICE TIPS CONTINUED

STATE'S ATTORNEY OBJECTIONS

- MVLS has encountered State's Attorneys objecting based on "satisfactory" language
- Increase in objections based on 10-110(f) factors
  - Including subsequent convictions that fall outside of the prescribed waiting period, non-conviction cases that occurred since the case petitioned for, overall number of cases on record
  - Arguing non-rehabilitation and risk to public safety

10-110(F)(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 (a) of this section; [charges are eligible convictions]

(ii) that the person is eligible for expungement under subsection (d) of this section; [no ineligible subsequent convictions]

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

(iv) that the person has paid any monetary restitution ordered by the court in the original proceeding or does not have the ability to pay the restitution; and

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

LEGISLATIVE UPDATES

PASSED

No Finding disposition

- Prince George's County-specific
- Disposition of charges listed as "no finding" or "case terminated without finding"
- Seemingly meant to avoid entering a guilty, but treated like a conviction by courts
- Previously could not be expunged regardless of the charge being otherwise eligible
- Charges with this disposition will now follow the same rules as convictions under Crim Pro 10-110

DID NOT PASS

- Good Cause
  - Allowing petition for otherwise ineligible cases
- Clean Slate
  - Expansion of automatic expungement
- Addition of eligible convictions
  - Resisting arrest, failure to obey lawful order, obtaining CDS through fraudulent prescription, CDS distribution

NEW CASE SEARCH

- **Maryland Judiciary Case Search & Record Portal has gone live**
  - In many cases, parties to case can see documents online when logged in
  - Attorneys with an account can view *nolle prosequi*, not guilty, and stet/pbj charges (not true in every case and details remain unclear)

- **MDEC Smart Search to be taken offline**
  - No date listed, but website states the page will be taken down shortly

Further questions?

Please Email: csweeney@mvlslaw.org

Maryland Volunteer Lawyers Service (MVLS) is a nonprofit organization that removes barriers to justice through free civil legal help, community engagement, and advocacy for equitable laws.

Sample of cases MVLS can assist with:

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Consumer
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- Contract Disputes

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