

HOUSE BILL 1335

E2

0lr3188

By: **Delegates Anderson, Carr, Cox, Crutchfield, D.M. Davis, W. Fisher, J. Lewis, Moon, and Mosby**

Introduced and read first time: February 7, 2020

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Automatic Expungement**

3 FOR the purpose of providing that a person who, on or after a certain date, has been
4 charged with the commission of a certain crime, has been charged with a certain civil
5 offense or infraction, or is the subject of a certain warrant, is entitled to automatic
6 expungement of certain records under certain circumstances; specifying that certain
7 dispositions are eligible for automatic expungement at certain times; requiring a
8 certain court to search diligently for and expunge certain court records and send a
9 certain notice to certain parties within a certain time period; requiring the Criminal
10 Justice Information System Central Repository, a booking facility, and a certain law
11 enforcement unit to search diligently for and expunge certain police and court
12 records and send a certain advisement to a certain person within a certain time
13 period; prohibiting a certain police or court record from being expunged by
14 obliteration until a certain amount of time after a certain disposition; requiring that,
15 during a certain time period, certain records be removed to a certain area; providing
16 that a legitimate reason for accessing certain records includes using the records for
17 certain purposes; authorizing a certain person to seek a certain redress and recover
18 court costs under certain circumstances; prohibiting a certain person from being
19 required to pay any fees or costs in connection with a certain expungement; requiring
20 a certain judge to inform a certain defendant at a certain time that certain records
21 will be automatically expunged under certain circumstances; authorizing a certain
22 person to opt out of a certain automatic expungement in a certain manner; providing
23 that opting out of a certain expungement does not bar expungement of certain
24 charges; and generally relating to expungement.

25 BY adding to
26 Article – Criminal Procedure
27 Section 10–105.1
28 Annotated Code of Maryland
29 (2018 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Procedure

10–105.1.

(A) SUBJECT TO SUBSECTION (I) OF THIS SECTION, A PERSON WHO, ON OR AFTER OCTOBER 1, 2020, 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, WHO HAS BEEN CHARGED WITH A CIVIL OFFENSE OR INFRACTION, EXCEPT A JUVENILE OFFENSE, OR WHO IS THE SUBJECT OF AN INVALIDATED WARRANT OR A FUGITIVE WARRANT IS ENTITLED TO AUTOMATIC EXPUNGEMENT OF ALL POLICE RECORDS, COURT RECORDS, AND OTHER RECORDS MAINTAINED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE RELATING TO THE MATTER IF:

(1) THE PERSON IS ACQUITTED;

(2) THE CHARGE OR WARRANT IS DISMISSED OR INVALIDATED;

(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 OTHER THAN A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS ENTERED; OR

(5) THE COURT INDEFINITELY POSTPONES TRIAL OF THE CHARGE BY MARKING THE CHARGE “STET” ON THE DOCKET, WITHOUT A REQUIREMENT OF DRUG OR ALCOHOL TREATMENT.

(B) (1) AN ACQUITTAL, A DISMISSAL, OR A NOLLE PROSEQUI OTHER THAN A NOLLE PROSEQUI WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS ELIGIBLE FOR AUTOMATIC EXPUNGEMENT IMMEDIATELY ON DISPOSITION.

(2) A PROBATION BEFORE JUDGMENT IS ELIGIBLE FOR AUTOMATIC EXPUNGEMENT AFTER SATISFACTORY COMPLETION OF ANY SENTENCE AND PROBATIONARY CONDITIONS IMPOSED IN CONNECTION WITH THE PROBATION BEFORE JUDGMENT DISPOSITION.

(3) A STET OTHER THAN A STET WITH THE REQUIREMENT OF DRUG OR ALCOHOL TREATMENT IS ELIGIBLE FOR AUTOMATIC EXPUNGEMENT 3 YEARS

1 AFTER THE ENTRY OF THE STET.

2 (C) WITHIN 60 DAYS AFTER THE ELIGIBILITY DATE SET FORTH IN
3 SUBSECTION (B) OF THIS SECTION, THE COURT WITH JURISDICTION OVER THE
4 MATTER SHALL:

5 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH COURT RECORD
6 ABOUT THE CHARGE; AND

7 (2) SEND A NOTICE OF EXPUNGEMENT CONTAINING ALL RELEVANT
8 FACTS ABOUT THE EXPUNGEMENT AND UNDERLYING CHARGE TO:

9 (I) THE CENTRAL REPOSITORY;

10 (II) EACH BOOKING FACILITY OR LAW ENFORCEMENT UNIT
11 THAT THE COURT BELIEVES MAY HAVE A POLICE RECORD ABOUT THE ARREST,
12 CONFINEMENT, OR CHARGE; AND

13 (III) THE PERSON ENTITLED TO EXPUNGEMENT.

14 (D) WITHIN 60 DAYS AFTER RECEIPT OF THE NOTICE, THE CENTRAL
15 REPOSITORY, A BOOKING FACILITY, AND ANY OTHER LAW ENFORCEMENT UNIT
16 SHALL:

17 (1) SEARCH DILIGENTLY FOR AND EXPUNGE EACH POLICE AND
18 COURT RECORD ABOUT THE ARREST, CONFINEMENT, OR CHARGING OF THE
19 PERSON; AND

20 (2) ADVISE IN WRITING THE PERSON ENTITLED TO EXPUNGEMENT OF
21 COMPLIANCE WITH THE ORDER.

22 (E) (1) A POLICE OR COURT RECORD EXPUNGED UNDER THIS SECTION
23 MAY NOT BE EXPUNGED BY OBLITERATION UNTIL 3 YEARS AFTER THE DISPOSITION
24 OF THE CHARGE.

25 (2) DURING THE 3-YEAR PERIOD DESCRIBED IN PARAGRAPH (1) OF
26 THIS SUBSECTION, THE RECORDS SHALL BE REMOVED TO A SEPARATE SECURE AREA
27 TO WHICH PERSONS WHO DO NOT HAVE LEGITIMATE REASON FOR ACCESS ARE
28 DENIED ACCESS.

29 (3) FOR PURPOSES OF THIS SUBSECTION, A LEGITIMATE REASON FOR
30 ACCESSING THE RECORDS INCLUDES USING THE RECORDS FOR PURPOSES OF
31 PROCEEDINGS RELATING TO THE ARREST OR CHARGE.

1 **(F) IF A COURT, A LAW ENFORCEMENT UNIT, A BOOKING FACILITY, OR THE**
2 **CENTRAL REPOSITORY FAILS TO EXPUNGE A POLICE OR COURT RECORD AS**
3 **REQUIRED UNDER SUBSECTION (C) OR (D) OF THIS SECTION, THE PERSON ENTITLED**
4 **TO EXPUNGEMENT MAY:**

5 **(1) SEEK REDRESS BY MEANS OF ANY APPROPRIATE LEGAL REMEDY;**
6 **AND**

7 **(2) RECOVER COURT COSTS.**

8 **(G) A PERSON WHO IS ENTITLED TO AUTOMATIC EXPUNGEMENT UNDER**
9 **THIS SECTION MAY NOT BE REQUIRED TO PAY ANY FEE OR COSTS IN CONNECTION**
10 **WITH THE EXPUNGEMENT.**

11 **(H) AT THE TIME OF MAKING A DISPOSITION DESCRIBED IN SUBSECTION (A)**
12 **OF THIS SECTION, THE COURT SHALL INFORM THE DEFENDANT THAT ALL POLICE**
13 **RECORDS, COURT RECORDS, AND OTHER RECORDS RELATING TO THE MATTER WILL**
14 **BE AUTOMATICALLY EXPUNGED UNLESS THE DEFENDANT OPTS OUT OF THE**
15 **EXPUNGEMENT.**

16 **(I) (1) A PERSON WHO IS ENTITLED TO AUTOMATIC EXPUNGEMENT**
17 **UNDER THIS SECTION MAY OPT OUT OF THE AUTOMATIC EXPUNGEMENT BY SO**
18 **NOTIFYING THE COURT AT THE TIME OF DISPOSITION.**

19 **(2) OPTING OUT OF EXPUNGEMENT OF A PARTICULAR CHARGE DOES**
20 **NOT BAR EXPUNGEMENT OF OTHER ELIGIBLE CHARGES.**

21 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
22 **October 1, 2020.**