

HOUSE BILL 1057

E2
HB 374/17 – JUD

8lr3103

By: **Delegates Sanchez and Vallario**
Introduced and read first time: February 7, 2018
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: March 10, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Denial of Petition Without Hearing**

3 FOR the purpose of altering a certain provision of law to authorize, rather than require, a
4 court to hold a hearing on a certain petition for expungement if the State’s Attorney
5 files a timely objection to the petition; authorizing a court to deny a certain petition
6 for expungement without a hearing if the court finds that the petition is barred as a
7 matter of law; authorizing a certain petitioner to request a hearing within a certain
8 amount of time under certain circumstances; requiring the court to hold a hearing
9 under certain circumstances; making conforming changes; and generally relating to
10 expungement of court and police records.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Procedure
13 Section 10–105(a)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2017 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Procedure
18 Section 10–105(e)
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Article – Criminal Procedure

10–105.

(a) A person who 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, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(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 or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article;

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;

(9) the person was convicted of a crime or found not criminally responsible under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

1 (iv) obstructing the free passage of another in a public place or a
2 public conveyance;

3 (v) sleeping on or in park structures, such as benches or doorways;

4 (vi) loitering;

5 (vii) vagrancy;

6 (viii) riding a transit vehicle without paying the applicable fare or
7 exhibiting proof of payment; or

8 (ix) except for carrying or possessing an explosive, acid, concealed
9 weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation
10 Article, any of the acts specified in § 7–705 of the Transportation Article;

11 (10) the person was found not criminally responsible under any State or
12 local law that prohibits misdemeanor:

13 (i) trespass;

14 (ii) disturbing the peace; or

15 (iii) telephone misuse;

16 (11) the person was convicted of a crime and the act on which the conviction
17 was based is no longer a crime; or

18 (12) the person was convicted of possession of marijuana under § 5–601 of
19 the Criminal Law Article.

20 (e) (1) If the State’s Attorney files a timely objection to the petition, the court
21 [shall] **MAY** hold a hearing.

22 (2) **(I)** If **A HEARING IS HELD, AND** the court at the hearing finds that
23 the person is entitled to expungement, the court shall order the expungement of all police
24 records and court records about the charge.

25 **[(3)] (II)** If **AT THE HEARING** the court finds that the person is not
26 entitled to expungement, the court shall deny the petition.

27 **(3) (I) THE COURT MAY DENY A PETITION WITHOUT A HEARING IF**
28 **THE COURT FINDS THAT THE PETITION IS BARRED AS A MATTER OF LAW.**

29 **(II) IF THE COURT DENIES A PETITION WITHOUT A HEARING**

1 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PETITIONER MAY REQUEST A
2 HEARING WITHIN 30 DAYS.

3 (III) IF A PETITIONER REQUESTS A HEARING UNDER
4 SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COURT SHALL HOLD A HEARING.

5 (4) The person is not entitled to expungement if:

6 (i) the petition is based on the entry of probation before judgment,
7 except a probation before judgment for a crime where the act on which the conviction is
8 based is no longer a crime, and the person within 3 years of the entry of the probation before
9 judgment has been convicted of a crime other than a minor traffic violation or a crime where
10 the act on which the conviction is based is no longer a crime; or

11 (ii) the person is a defendant in a pending criminal proceeding.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.