

HOUSE BILL 590

E2

6lr2816

By: **Delegates Vallario, Anderson, Atterbeary, Carter, Conaway, Dumais, Moon, Proctor, Rosenberg, Sanchez, Smith, Sydnor, and Valentino-Smith**

Introduced and read first time: February 3, 2016

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 14, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Probation Before Judgment**

3 FOR the purpose of repealing a provision of law denying a person entitlement to
4 expungement if the petition for expungement is based on the entry of probation
5 before judgment for a certain crime and the person, within a certain period of time
6 of the entry of the probation before judgment, has been convicted of a certain crime;
7 and generally relating to expungement.

8 BY repealing and reenacting, without amendments,

9 Article – Criminal Procedure

10 Section 10–105(a)

11 Annotated Code of Maryland

12 (2008 Replacement Volume and 2015 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article – Criminal Procedure

15 Section 10–105(e)

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2015 Supplement)

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

20 **Article – Criminal Procedure**

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.



1 10–105.

2 (a) A person who has been charged with the commission of a crime, including a
3 violation of the Transportation Article for which a term of imprisonment may be imposed,
4 or who has been charged with a civil offense or infraction, except a juvenile offense, as a
5 substitute for a criminal charge may file a petition listing relevant facts for expungement
6 of a police record, court record, or other record maintained by the State or a political
7 subdivision of the State if:

8 (1) the person is acquitted;

9 (2) the charge is otherwise dismissed;

10 (3) a probation before judgment is entered, unless the person is charged
11 with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211
12 of the Criminal Law Article;

13 (4) a nolle prosequi or nolle prosequi with the requirement of drug or
14 alcohol treatment is entered;

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

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

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

21 (8) the person:

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

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

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

27 (i) urination or defecation in a public place;

28 (ii) panhandling or soliciting money;

29 (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; or

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

18 (e) (1) If the State's Attorney files a timely objection to the petition, the court
19 shall hold a hearing.

20 (2) If the court at the hearing finds that the person is entitled to
21 expungement, the court shall order the expungement of all police records and court records
22 about the charge.

23 (3) If the court finds that the person is not entitled to expungement, the
24 court shall deny the petition.

25 (4) The person is not entitled to expungement if[

26 (i) the petition is based on the entry of probation before judgment,
27 except a probation before judgment for a crime where the act on which the conviction is
28 based is no longer a crime, and the person within 3 years of the entry of the probation before
29 judgment has been convicted of a crime other than a minor traffic violation or a crime where
30 the act on which the conviction is based is no longer a crime; or

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.