

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 685

(Delegate Rosenberg, *et al.*)

Judiciary

Judicial Proceedings

Police and Court Records - Nuisance Crimes - Expungement

This bill permits a person convicted of specified public nuisance crimes to seek expungement of the associated criminal records. The petition may not be filed within three years after the conviction or satisfactory completion of the sentence, whichever is later.

The bill provides that a person is not entitled to expungement if, since the time of the conviction for the nuisance crime for which expungement is sought, the person has been convicted of a crime other than a minor traffic violation or is a defendant in a pending criminal proceeding. It also specifies that if a person is not entitled to expungement of one charge or conviction in a unit, the person is not entitled to expungement of any other charge or conviction in the unit.

Fiscal Summary

State Effect: Potential minimal increase in the Department of Public Safety and Correctional Services expenditures. Potential minimal increase in general fund revenues for the Judiciary. The actual effect depends on the number of expungements requested and granted by the court.

Local Effect: Some local governments could incur minimal expenditures associated with the location and expungement of records.

Small Business Effect: None.

Analysis

Bill Summary: The crimes covered by the bill include any State or local law that prohibits:

- urination or defecation in a public place;
- panhandling or soliciting money;
- drinking an alcoholic beverage in a public place;
- obstructing the free passage of another in a public place or a public conveyance;
- sleeping on or in park structures such as benches or doorways;
- loitering;
- vagrancy;
- riding a transit vehicle without paying the applicable fare; or
- specified acts regarding conduct while in a transit vehicle or facility, not including carrying or possessing concealed weapons or other dangerous articles.

Current Law: A person who has been charged with the commission of a crime 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, under various circumstances listed in the statute. These grounds include acquittal, dismissal of charges, entry of probation before judgment, entry of *nolle prosequi*, stet of charge, and gubernatorial pardon.

If two or more charges, other than one for a minor traffic violation, arise from the same incident, transaction, or set of facts, they are considered to be a unit. If a person is not entitled to expungement of one charge in a unit, the person is not entitled to expungement of any other charge in the unit.

Expungement of a court record means removal from public inspection:

- by obliteration;
- by removal to a separate secure area to which persons who do not have a legitimate reason for access are denied access; and
- if access to a court record or police record can be obtained only by reference to another such record, by the expungement of that record, or the part of it that provides access.

Background: Nuisance laws are frequently used to discourage the public presence and activities of destitute and homeless persons. Expungement will allow such individuals to escape the collateral consequences or civil disabilities of such convictions.

State Fiscal Effect: The District Court requires individuals petitioning for the expungement of records to pay a \$30 filing fee. General fund revenues for the Judiciary would increase to the extent that additional petitions for expungement are filed as a result of this bill. The Judiciary would incur minimal expenses to reprint forms and brochures.

DPSCS advises there are approximately 96,000 individuals in the State who have one or more nuisance crimes on their records. Any additional expungements would increase expenditures and the workload of DPSCS. However, crimes covered by the bill are frequently one of several charges arising out of the same incident, which cannot be expunged unless all the other charges in the unit also qualify for expungement. Based on this, the entitlement to file a petition for expungement may be limited. Furthermore, it cannot be predicted with certainty how many of these qualifying individuals will petition for expungement and how many expungements will be granted by the court. Consequently, any additional expenditures cannot be reliably determined beforehand.

Local Fiscal Effect: Some local governments report the possibility of additional costs associated with the location and removal of records for these specific arrests. The majority of local governments, including Montgomery County, Prince George's County, and Baltimore City anticipate little to no fiscal impact. Other jurisdictions, such as the City of Salisbury, indicate a potential increase in workload for staff and the possibility of needing to hire additional staff.

Additional Information

Prior Introductions: HB 607 of 2005 passed in both Houses but was vetoed by the Governor.

Cross File: SB 695 (Senator Gladden, *et al.*) – Judicial Proceedings.

Information Source(s): State's Attorneys' Association, Town of Bel Air, City of Salisbury, Allegany County, Montgomery County, Prince George's County, Talbot County, Judiciary (Administrative Office of the Courts), Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510