



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
HB0550

Criminal Procedure - Partial Expungement

Bill Summary

This bill repeals the current prohibition on expungement of a charge within a “unit” of charges unless all of the charges in the unit are eligible for expungement. The bill authorizes the partial expungement of eligible charges within a unit if one or more of the charges is ineligible and establishes procedural requirements for partial expungements under § 10-105 of the Criminal Procedure Article if a State’s Attorney files an objection to the partial expungement.

Racial Equity Impact Statement

The bill’s partial expungement provisions would potentially lessen the adverse effects on individuals resulting from criminal records that are covered under the bill. Expungement can be helpful to impacted individuals in obtaining employment and other related benefits. National and State data show significant negative effects of a criminal record on employment outcomes, and while specific data is not available to measure the extent of these impacts, Black individuals could benefit the most from the bill as they are significantly overrepresented in the criminal justice system.

Analysis

The bill would give individuals the opportunity to remove certain criminal charges and/or convictions from a criminal record, even if other charges arising from the same incident do not meet eligibility standards.

Expungements – Section 10-105 of the Criminal Procedure Article

Under § 10-105 of the Criminal Procedure Article, a person who has been charged with the commission of a crime for which a term of imprisonment may be imposed or who has been charged with a civil offense or infraction, except a juvenile offense, may file a petition 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. Individuals convicted of a crime that is no longer a crime, convicted of possession of marijuana under § 5-601 of the Criminal Law Article, or convicted of or found not criminally responsible for specified public nuisance crimes or specified misdemeanors are also eligible for expungement of the associated criminal records under certain circumstances.

Expungements – Section 10-110 of the Criminal Procedure Article

Section 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses, or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements. Misdemeanors eligible for expungement under this section include disorderly intoxication, assault in the second degree, and possession or administration of a controlled dangerous substance not involving the use or possession of cannabis. Felony convictions eligible for expungement include general theft (at least \$1,500), possession with intent to distribute a controlled dangerous substance, and specified burglary offenses.

Pursuant to § 10-107 of the Criminal Law Article, if two or more charges, other than 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 or conviction in a unit, the person is not entitled to expungement of any other charge in the unit. This “unit rule” applies to expungements under §§ 10-105 and 10-110 of the Criminal Procedure Article.

According to the Administrative Office of the Courts, there were 38,448 petitions for expungement in Maryland’s circuit courts and District Court in fiscal 2022 and 46,251 petitions in fiscal 2023. There is currently no demographic data available that indicates the racial and ethnic composition of individuals impacted by expungement.

Collateral Consequences of a Criminal Record

Expungement is intended to help mitigate the adverse consequences of having a criminal record, which can last beyond imprisonment, fines, and the legal process and can include the denial of civil opportunities and benefits available to a person due to their record. Specifically, having a criminal history can adversely affect employment prospects which can further influence an individual’s level of income, housing opportunities, and access to quality health care.

Employment is key to stable housing and homeownership and a variety of State and national data show that higher incomes can lead to the stability and consistency necessary to accumulate the various upfront resources needed to buy a home. Monetary savings for down payments and good credit scores are necessary to achieve initial homeownership and are largely driven by an individual’s employment status and level of income. Employment also often dictates one’s access

to health care. Access to jobs with health insurance may be limited or restricted by an attachment to a criminal record. A criminal record can therefore impose significant barriers to upward socioeconomic mobility.

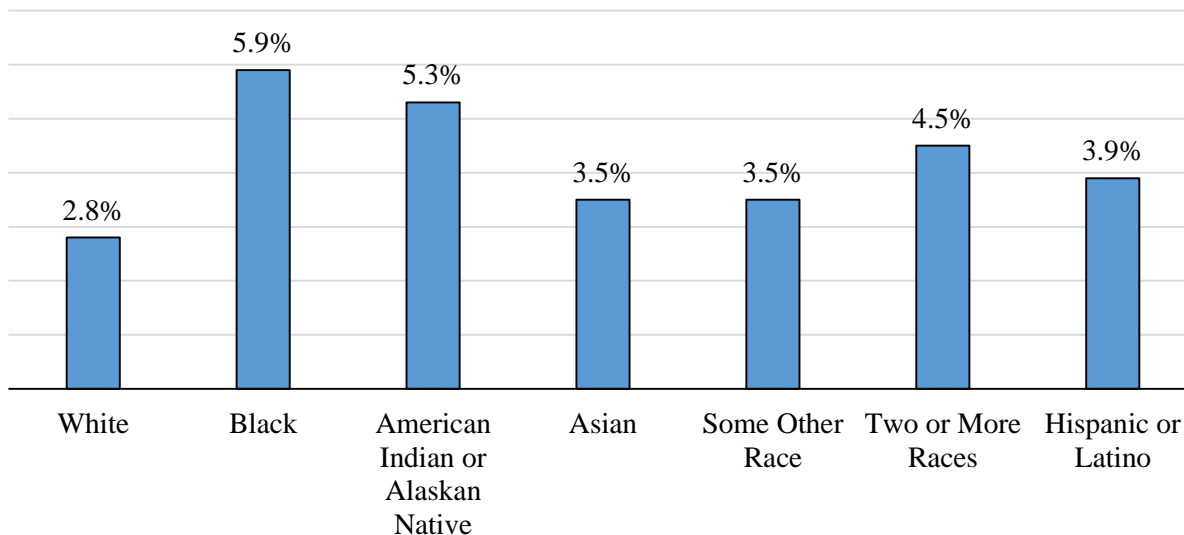
Impacts of the Bill

National and State data consistently show that racial minorities experience disproportionate levels of adversity in the areas of life affected by a criminal record. National studies have found that there is a significant negative effect of having a criminal record on employment outcomes that appears substantially larger for Black individuals. As shown in **Exhibit 1**, in 2022, the unemployment rate in Maryland was highest among Black job seekers and over twice the rate for white job seekers in the State.

The Department of Public Safety and Correctional Services reports that, for fiscal 2023, Black individuals made up 71% of Maryland’s prison population contrasted with their 29% share of the State’s overall population.

The bill’s partial expungement provisions will likely impact Black individuals to a greater extent as these individuals are overrepresented in charges, arrests, and incarceration for many crimes at a disproportionately high rate, making them also disproportionately affected by the collateral consequences of criminal records.

Exhibit 1
Unemployment Rate in Maryland
by Race and Ethnicity
2022



Source: U.S. Census Bureau

Conclusion

The bill's provisions allowing for partial expungement of a criminal record will enable successful applicants for eligible expungement to refrain from disclosing certain convictions and contacts that may prevent them from achieving employment and all the ancillary benefits and opportunities that come with it, such as improved housing and health care opportunities. The bill will potentially impact Black individuals to a greater extent given the disproportionate number of Black individuals currently incarcerated. The exact equity impacts of the bill cannot be estimated, however, without additional data including historical demographic data on expungement applicants, individuals eligible for expungement under the bill, and prospective employment data for individuals with expunged records.

Information Sources: U.S. Census Bureau; Department of Public Safety and Correctional Services; Administrative Office of the Courts; Department of Legislative Services

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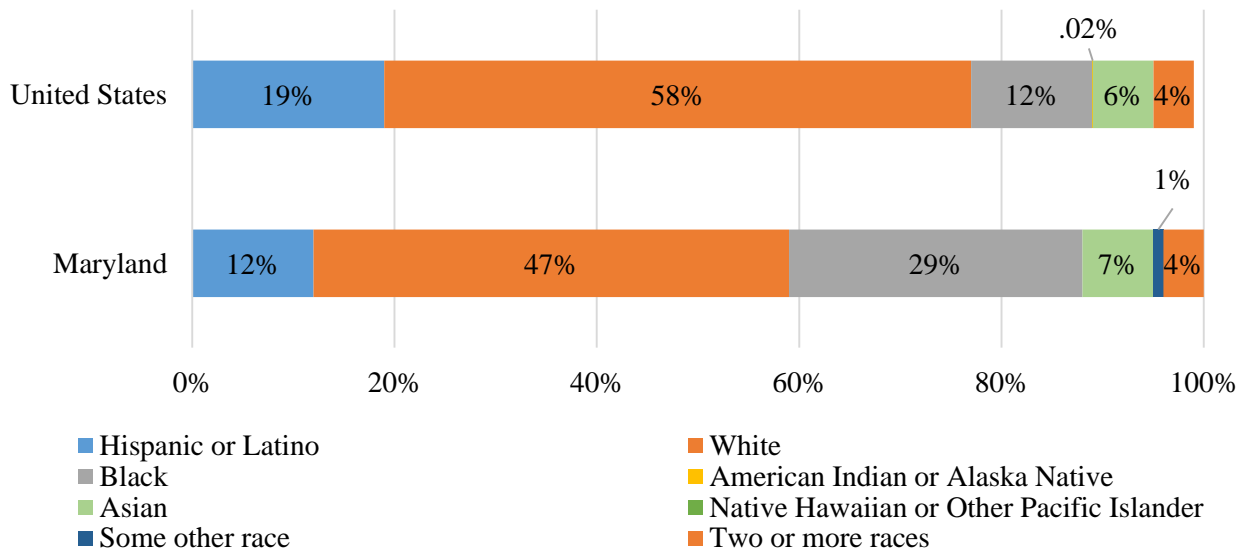
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.