

# HOUSE BILL 304

E2

(5lr1460)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Carter, Anderson, Barron, Branch, Conaway, Glass, Glenn, Gutierrez, Haynes, Jalisi, Lierman, McCray, Moon, Oaks, Pena-Melnyk, Proctor, B. Robinson, Rosenberg, Smith, and Vallario**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Criminal Procedure – Expungement of Records**

3 FOR the purpose of repealing a provision of law that provides that a person is not entitled  
4 to expungement of the person’s record if the petition for expungement is based on a  
5 certain case disposition other than ~~an~~ a certain entry of a probation before judgment  
6 within a certain period and the person, since the disposition, has been convicted of a  
7 crime other than a minor traffic violation or a certain crime; providing that a person  
8 is not entitled to expungement of the person’s record if the person is a defendant in  
9 a pending criminal proceeding, regardless of the basis of the petition; and generally  
10 relating to expungement of records.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Procedure

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#### 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.

*Italics indicate opposite chamber/conference committee amendments.*



1 Section 10–105(e)  
 2 Annotated Code of Maryland  
 3 (2008 Replacement Volume and 2014 Supplement)

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

6 **Article – Criminal Procedure**

7 10–105.

8 (e) (1) If the State’s Attorney files a timely objection to the petition, the court  
 9 shall hold a hearing.

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

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

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

16 (i) the petition is based on the entry of probation before judgment,  
 17 ~~**EXCEPT A PROBATION BEFORE JUDGMENT FOR A CRIME WHERE THE ACT ON WHICH**~~  
 18 ~~**THE CONVICTION IS BASED IS NO LONGER A CRIME,**~~ a nolle prosequi, a stet, including  
 19 ~~a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the~~  
 20 ~~requirement of drug or alcohol abuse treatment, a conviction for a crime specified in~~  
 21 ~~subsection (a)(9) of this section, a finding of not criminally responsible, or the grant of a~~  
 22 ~~pardon by the Governor; and~~

23 ~~(ii) the person~~

24 ~~since~~ **WITHIN 3 YEARS OF** the ~~full and unconditional~~  
 25 ~~pardon, entry, finding of not criminally responsible, or conviction~~ **ENTRY OF THE**  
 26 **PROBATION BEFORE JUDGMENT** has been convicted of a crime other than a minor traffic  
 27 violation **OR A CRIME WHERE THE ACT ON WHICH THE CONVICTION IS BASED IS NO**  
 28 **LONGER A CRIME;** or

29 ~~(ii)~~ **(II)** **THE PERSON** is a defendant in a pending criminal  
 30 proceeding.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 32 October 1, 2015.