

HOUSE BILL 889

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5lr2464

By: **Delegates Carter, D. Barnes, Anderson, Barron, Conaway, Glass, Gutierrez, Hayes, Haynes, Impallaria, Lierman, McCray, McIntosh, Moon, Morales, Oaks, Platt, Proctor, B. Robinson, Rosenberg, Smith, Tarlau, and C. Wilson**
Introduced and read first time: February 13, 2015
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Expungement of Records – Waiting Period for Acquittal,**
3 **Nolle Prosequi, or Dismissal**

4 FOR the purpose of repealing a provision of law establishing a 3–year period within which
5 a petition for expungement based on an acquittal, a nolle prosequi, or a dismissal
6 may not be filed unless the petitioner files with the petition a certain waiver and
7 release; and generally relating to expungement of criminal records.

8 BY repealing and reenacting, without amendments,
9 Article – Criminal Procedure
10 Section 10–105(a), (a–1), and (b)
11 Annotated Code of Maryland
12 (2008 Replacement Volume and 2014 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Procedure
15 Section 10–105(c)
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2014 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**

21 10–105.

22 (a) A person who has been charged with the commission of a crime, including a
23 violation of the Transportation Article for which a term of imprisonment may be imposed,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

5 (1) the person is acquitted;

6 (2) the charge is otherwise dismissed;

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

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

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

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

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

18 (8) the person:

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

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

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

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

25 (ii) panhandling or soliciting money;

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

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

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

30 (vi) loitering;

1 (vii) vagrancy;

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

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

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

9 (i) trespass;

10 (ii) disturbing the peace; or

11 (iii) telephone misuse.

12 (a-1) A person's attorney or personal representative may file a petition, on behalf of
13 the person, for expungement under this section if the person died before disposition of the
14 charge by nolle prosequi or dismissal.

15 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person
16 shall file a petition in the court in which the proceeding began.

17 (2) If the proceeding began in one court and was transferred to another
18 court, the person shall file the petition in the court to which the proceeding was transferred.

19 (3) (i) If the proceeding in a court of original jurisdiction was appealed
20 to a court exercising appellate jurisdiction, the person shall file the petition in the appellate
21 court.

22 (ii) The appellate court may remand the matter to the court of
23 original jurisdiction.

24 (c) (1) [Except as provided in paragraph (2) of this subsection, a petition for
25 expungement based on an acquittal, a nolle prosequi, or a dismissal may not be filed within
26 3 years after the disposition, unless the petitioner files with the petition a written general
27 waiver and release of all the petitioner's tort claims arising from the charge.

28 (2)] A petition for expungement based on a probation before judgment or a
29 stet with the requirement of drug or alcohol abuse treatment may not be filed earlier than
30 the later of:

31 (i) the date the petitioner was discharged from probation or the
32 requirements of obtaining drug or alcohol abuse treatment were completed; or

1 (ii) 3 years after the probation was granted or stet with the
2 requirement of drug or alcohol abuse treatment was entered on the docket.

3 **[(3)](2)** A petition for expungement based on a nolle prosequi with the
4 requirement of drug or alcohol treatment may not be filed until the completion of the
5 required treatment.

6 **[(4)](3)** A petition for expungement based on a full and unconditional
7 pardon by the Governor may not be filed later than 10 years after the pardon was signed
8 by the Governor.

9 **[(5)](4)** Except as provided in paragraph **[(2)](1)** of this subsection, a
10 petition for expungement based on a stet or a compromise under § 3–207 of the Criminal
11 Law Article may not be filed within 3 years after the stet or compromise.

12 **[(6)](5)** A petition for expungement based on the conviction of a crime
13 under subsection (a)(9) of this section may not be filed within 3 years after the conviction
14 or satisfactory completion of the sentence, including probation, that was imposed for the
15 conviction, whichever is later.

16 **[(7)](6)** A petition for expungement based on a finding of not criminally
17 responsible under subsection (a)(9) or (10) of this section may not be filed within 3 years
18 after the finding of not criminally responsible was made by the court.

19 **[(8)](7)** A court may grant a petition for expungement at any time on a
20 showing of good cause.

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