

HOUSE BILL 79

E3
HB 282/13 – JUD

(PRE-FILED)

4r0886
CF SB 68

By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Requested: November 12, 2013
Introduced and read first time: January 8, 2014
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 10, 2014

CHAPTER _____

1 AN ACT concerning

2 **Courts – Juveniles – Expungement of Records**

3 FOR the purpose of authorizing a person to file a certain petition for expungement of
4 certain juvenile records; requiring the court to serve a certain petition on a
5 certain State's Attorney; authorizing the court to order the expungement of a
6 certain record under certain circumstances; requiring the court to consider
7 certain criteria in its consideration of a certain petition for expungement of
8 records; authorizing the court to grant a certain petition for expungement
9 without a hearing under certain circumstances; authorizing and requiring the
10 court to deny a certain petition for expungement under certain circumstances;
11 requiring the court to order the expungement of certain records under certain
12 circumstances; authorizing and requiring the court to hold a certain hearing
13 under certain circumstances; requiring the custodian of certain records to
14 advise in writing certain persons regarding compliance with a certain court
15 order requiring expungement under certain circumstances; authorizing the
16 filing of an appeal by certain persons under certain circumstances; providing
17 that this Act does not apply to certain records; defining certain terms; and
18 generally relating to juveniles and expungement of records.

19 BY adding to
20 Article – Courts and Judicial Proceedings
21 Section 3–8A–27.1
22 Annotated Code of Maryland

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 (2013 Replacement Volume and 2013 Supplement)

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

4 **Article – Courts and Judicial Proceedings**

5 **3-8A-27.1.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “EXPUNGEMENT” ~~MEANS THE PHYSICAL DESTRUCTION OF A~~
9 ~~RECORD AND OBLITERATION OF A PERSON’S NAME FROM ANY OTHER OFFICIAL~~
10 ~~INDEX OR PUBLIC RECORD OR BOTH~~ HAS THE MEANING STATED IN § 10-101 OF
11 THE CRIMINAL PROCEDURE ARTICLE.

12 (3) “JUVENILE ~~DELINQUENCY~~ RECORD” ~~INCLUDES~~ MEANS A
13 COURT RECORD, AND POLICE RECORD, AND STATE’S ATTORNEY’S RECORD
14 CONCERNING A CHILD ALLEGED OR ADJUDICATED DELINQUENT OR IN NEED OF
15 SUPERVISION OR WHO HAS RECEIVED A CITATION FOR A VIOLATION.

16 (B) (1) A PERSON MAY FILE A PETITION FOR EXPUNGEMENT OF THE
17 PERSON’S JUVENILE ~~DELINQUENCY~~ RECORD IN THE COURT IN WHICH THE
18 ~~DELINQUENCY~~ PETITION OR CITATION WAS FILED.

19 (2) THE COURT SHALL HAVE A COPY OF THE PETITION FOR
20 EXPUNGEMENT SERVED ON THE STATE’S ATTORNEY.

21 (C) THE COURT MAY ORDER A JUVENILE ~~DELINQUENCY~~ RECORD
22 EXPUNGED IF:

23 (1) (I) THE STATE’S ATTORNEY ENTERS A NOLLE PROSEQUI;

24 (II) THE PETITION IS DISMISSED;

25 (III) THE COURT, IN AN ADJUDICATORY HEARING, DOES NOT
26 FIND THAT THE ALLEGATIONS IN THE PETITION ARE TRUE;

27 (IV) THE ADJUDICATORY HEARING IS NOT HELD WITHIN 2
28 YEARS AFTER A PETITION IS FILED; OR

29 (V) THE COURT, IN A DISPOSITION HEARING, FINDS THAT
30 THE PERSON DOES OR DOES NOT REQUIRE GUIDANCE, TREATMENT, OR
31 REHABILITATION;

1 ~~(1)~~ (2) THE PERSON HAS ATTAINED THE AGE OF 18 YEARS AND
2 AT LEAST 2 YEARS HAVE ELAPSED SINCE THE LAST OFFICIAL ACTION IN THE
3 PERSON'S JUVENILE ~~DELINQUENCY~~ RECORD;

4 ~~(2)~~ (3) THE PERSON HAS NOT BEEN ADJUDICATED
5 DELINQUENT ~~NOT~~ MORE THAN ONCE;

6 ~~(3)~~ (4) THE PERSON HAS NOT SUBSEQUENTLY BEEN
7 CONVICTED OF ANY OFFENSE;

8 ~~(4)~~ (5) NO DELINQUENCY PETITION OR CRIMINAL CHARGE IS
9 PENDING AGAINST THE PERSON;

10 ~~(5)~~ (6) THE PERSON HAS NOT BEEN ADJUDICATED
11 DELINQUENT FOR AN OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD
12 CONSTITUTE A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL
13 LAW ARTICLE;

14 ~~(6)~~ (7) THE PERSON WAS NOT REQUIRED TO REGISTER AS A
15 SEX OFFENDER UNDER § 11-704(C) OF THE CRIMINAL PROCEDURE ARTICLE;

16 (8) THE PERSON HAS NOT BEEN ADJUDICATED DELINQUENT FOR
17 AN OFFENSE INVOLVING THE USE OF A FIREARM, AS DEFINED IN § 5-101 OF THE
18 PUBLIC SAFETY ARTICLE, IN THE COMMISSION OF A CRIME OF VIOLENCE, AS
19 DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE; AND

20 ~~(7)~~ (9) THE PERSON HAS FULLY PAID ANY MONETARY
21 RESTITUTION ORDERED BY THE COURT IN THE DELINQUENCY PROCEEDING.

22 (D) THE COURT SHALL CONSIDER THE BEST INTERESTS OF THE
23 PERSON, THE PERSON'S STABILITY IN THE COMMUNITY, AND THE SAFETY OF
24 THE PUBLIC IN ITS CONSIDERATION OF THE PETITION FOR EXPUNGEMENT.

25 (E) (1) IF NO OBJECTION IS FILED, THE COURT MAY GRANT THE
26 PETITION WITHOUT A HEARING.

27 (2) IF THE COURT FINDS THAT A PETITION FAILS ON ITS FACE TO
28 MEET THE REQUIREMENTS UNDER SUBSECTION (C) OF THIS SECTION, THE
29 COURT MAY DENY THE PETITION WITHOUT A HEARING.

30 (3) (I) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS
31 SUBSECTION, IF THE STATE'S ATTORNEY FILES AN OBJECTION TO THE

1 PETITION WITHIN 30 DAYS AFTER THE PETITION IS SERVED, THE COURT SHALL
2 HOLD A HEARING.

3 (II) THE COURT MAY HOLD A HEARING ON ITS OWN
4 INITIATIVE.

5 (III) IF, AFTER A HEARING, THE COURT FINDS THAT THE
6 PERSON IS ENTITLED TO EXPUNGEMENT, THE COURT SHALL ORDER THE
7 EXPUNGEMENT OF ALL COURT RECORDS, AND POLICE RECORDS, AND STATE'S
8 ATTORNEY'S RECORDS RELATING TO THE DELINQUENCY ~~PROCEEDINGS~~ OR
9 CHILD IN NEED OF SUPERVISION PETITION OR THE CITATION.

10 (IV) IF, AFTER A HEARING, THE COURT FINDS THAT THE
11 PERSON IS NOT ENTITLED TO EXPUNGEMENT, THE COURT SHALL DENY THE
12 PETITION.

13 (F) THE PERSON WHO FILED THE PETITION FOR EXPUNGEMENT OR THE
14 STATE'S ATTORNEY MAY APPEAL AN ORDER GRANTING OR DENYING THE
15 PETITION.

16 (G) UNLESS AN ORDER IS STAYED PENDING AN APPEAL, EACH
17 CUSTODIAN OF ~~POLICE AND COURT~~ JUVENILE RECORDS SUBJECT TO THE
18 ORDER OF EXPUNGEMENT SHALL ADVISE, IN WRITING, THE COURT, THE
19 PETITIONER, AND ALL PARTIES TO THE PETITION FOR EXPUNGEMENT
20 PROCEEDING OF COMPLIANCE WITH THE ORDER WITHIN 60 DAYS AFTER ENTRY
21 OF THE ORDER.

22 (H) THIS SECTION DOES NOT APPLY TO ~~RECORDS~~:

23 (1) RECORDS MAINTAINED UNDER TITLE 11, SUBTITLE 7 OF THE
24 CRIMINAL PROCEDURE ARTICLE; OR

25 (2) RECORDS MAINTAINED BY A LAW ENFORCEMENT AGENCY FOR
26 THE SOLE PURPOSE OF COLLECTING STATISTICAL INFORMATION CONCERNING
27 JUVENILE DELINQUENCY AND THAT DO NOT CONTAIN ANY INFORMATION THAT
28 WOULD REVEAL THE IDENTITY OF A PERSON.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2014.