

SENATE BILL 101

E2
SB 510/17 – JPR

(PRE-FILED)

8lr1218

By: **Senator Norman**

Requested: November 15, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 6, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Expungement – Time for Filing**

3 FOR the purpose of repealing the prohibition on the filing of a petition for expungement
4 based on an acquittal, a dismissal, or a nolle prosequi within a certain time period
5 after the disposition unless the petitioner files with the petition a certain waiver and
6 release; requiring certain records that are ordered for expungement to be expunged
7 by removing the records to a certain secured area; providing that certain records are
8 subject to discovery in a civil action, except under certain circumstances; and
9 generally relating to expungement of criminal records.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 10–105(c)(1) and (e)(2)
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2017 Supplement)

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

17 **Article – Criminal Procedure**

18 10–105.

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.



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

(e) (2) (I) **[If] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IF** the court at the hearing finds that the person is entitled to expungement, the court shall order the expungement of all police records and court records about the charge.

(II) **1. IF A PETITION FOR EXPUNGEMENT UNDER SUBSECTION (C)(1) OF THIS SECTION IS GRANTED WITHIN 3 YEARS AFTER THE DISPOSITION, THE EXPUNGEMENT SHALL BE ACCOMPLISHED BY REMOVING THE RECORDS TO A SEPARATE SECURE AREA TO WHICH PERSONS WHO DO NOT HAVE A LEGITIMATE REASON FOR ACCESS ARE DENIED ACCESS.**

2. UNLESS A JUDICIAL OFFICER FINDS THAT THE RECORD IS PRIVILEGED OR OTHERWISE PROTECTED FROM DISCOVERY UNDER THE MARYLAND RULES, A RECORD EXPUNGED UNDER THIS SUBPARAGRAPH IS SUBJECT TO DISCOVERY IN A CIVIL ACTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.