

CRIMINAL RECORDS EXPUNGEMENT

A GUIDE

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MVLS appreciates their contributions.

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Introduction

Law enforcement agencies and clerks of the courts retain records of arrests or judicial proceedings on criminal charges indefinitely. An investigation of an individual's criminal records will reveal any arrest or criminal charge even if the arrest did not result in any charges being filed and the criminal proceedings resulted in an acquittal or probation before judgment.

In many instances, these records may be expunged such that there will be no trace of the arrest or the criminal proceeding in the person's record. Article 27, Section 737 of the Maryland Annotated Code and Title 4, Chapter 500 of Maryland Rules provide the authority and procedures for expungement of records pertaining to arrests and criminal proceedings. The Clerk of the District Court or Circuit Court can provide the necessary forms for filing a petition for expungement of records. Maryland Rules also contain Forms 4-503.1, 4-503.2, and 4-504.1 for this purpose.

Maryland Rules provide one set of procedures for expungement of records when an arrest did not result in charges (Application for Expungement of Police Records) and one set of procedures for expungement of records when the arrest resulted in charges (Petition for Expungement of Records). This manual concentrates on expungement of records when an arrest has resulted in charges, which involves expungement of both court records and police records. For the Statutes and Rules governing expungement of police records for arrests not resulting in charges, refer to Article 27, Section 736, Form 4-503.3, and Rule 4-501, et. seq. In the remainder of this manual, "criminal records" and "expungement" will refer only to expungement of court and police records when the person has been charged with the commission of a crime.

Criminal Records

The type of disposition and the criminal record of the individual will determine whether the arrest or charge may be expunged.

The first step in the process is to obtain the individual's complete criminal record. The client may come to you asking for expungement of a disposition in Baltimore City, but he may not be aware of his record in another jurisdiction. There is a central database that contains

records of all criminal arrests and charges and the subsequent disposition for all jurisdictions in Maryland. The client must obtain a copy of his¹ record from:

Criminal Justice Information System

Reisterstown Plaza, Room 200

6776 Reisterstown Road

Baltimore, Maryland

The cost is \$23.00 and is not waiveable. CJIS does not accept cash – only money orders or certified or personal checks made payable to CJIS-Central Repository. It usually takes about 10 days to get the records.

What Can Be Expunged

Article 27, Section 737 provides that a person charged with the commission of a crime may file a petition for expungement of the police records, court records, and other records maintained by the State of Maryland and its subdivisions if any of the following apply.

Section 738 provides that charges resulting from the same incident, transaction, or set of facts should be considered as a unit in making a decision to grant expungement. If any of the charges of the unit cannot be expunged, none of the charges will be expunged. The exception to this provision is charges for violation of any provision of the Maryland Vehicle Law for which a term of imprisonment may not be imposed or any other traffic law, ordinance, or regulation. Such charges may not be included in a unit described above and may not preclude expungement of any criminal charge if the person is otherwise entitled to an expungement.

For expungement purposes, the term “Court records” does not include records pertaining to nonincarcerable violations of the vehicle laws of the State or any other traffic law, ordinance or regulation; written opinions of a court that have been published; cash receipt and disbursement records necessary for audit purposes; or a court reporter’s transcript of proceedings in multiple defendant cases. Furthermore, “Police records” does not include investigatory files; police work-product records used solely for police investigation purposes; or records pertaining to nonincarcerable violations of the vehicle laws of the State or of any other traffic law, ordinance,

¹ Throughout this manual, “he,” “him,” and “his” have been used to refer to the individual seeking expungement. This is for ease of reference only and does not imply that arrests, convictions, or expungements involve only male individuals.

or regulation. The types of disposition that may be expunged and the conditions under which the individual may petition the court for expungement are listed below.

Acquittal.

The person is acquitted and three years have passed since the disposition (or earlier if a General Waiver and Release is filed).

Dismissal.

The charge is dismissed or quashed and three years have passed since the disposition (or earlier if a General Waiver and Release is filed).

Nolle Prosequi.

A nolle prosequi is entered (meaning the prosecutor has decided not to prosecute the case) and three years have passed since the disposition (or earlier if a General Waiver and Release is filed). The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of nolle prosequi. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Probation Before Judgment (PBJ).

A disposition of probation before judgment (except on a charge under Transportation Article, Section 21-902 – driving while intoxicated) is entered, but not before three years have passed since the disposition or the person is discharged from probation, whichever occurs later. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date the PBJ was entered. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Stet Docket.

The proceeding is placed on the stet docket (the prosecutor has suspended the case but may reopen it later) and three years have passed since the disposition. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date the disposition that the case be placed on

stet docket. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Compromise.

The case is compromised pursuant to Article 27, Section 766 (Victim’s Rights provision – victim compromising the case leading to dismissal) and three years have passed since the disposition.

Pardon.

The person is convicted of only one criminal act, which is not a crime of violence as defined in Article 27, Section 643B(a), and has been pardoned by the governor more than five years, but less than 10 years, before the filing of the petition. The person may not petition for expungement under this subsection if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of pardon. This restriction does not apply if the subsequent criminal conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Section 643B defines the term “crime of violence” to mean abduction, arson in the first degree, kidnapping, manslaughter (except involuntary manslaughter), mayhem and maiming (defined under §§ 384, 385, and 386), murder, rape, robbery, robbery with a deadly weapon, carjacking or armed carjacking, sexual offense in the first degree, sexual offense in the second degree, use of a handgun in the commission of a felony or other crime of violence, an attempt to commit any of the aforesaid offenses, assault in the first degree, assault with intent to murder, assault with intent to rape, assault with intent to rob, assault with intent to commit a sexual offense in the first degree, and assault with intent to commit a sexual offense in the second degree.

Transfer to Juvenile Court.

The charge was transferred to juvenile court under Article 27, Section 594A, which provides for the transfer of an individual between the ages of 14 and 18. The transfer is authorized if the child has not been previously waived into juvenile court, convicted in another unrelated case, or charged with first-degree murder, and the waiver is in the best interests of the child or society.

Section 737(b) mandates expungement of these records if the charge transferred under Section 594A did not result in the filing of a petition under Section 3-810 of the Courts and Judicial Proceedings Article or the decision on the petition file pursuant to Section 3-810 was a finding of facts-not-sustained. A petition for expungement of records under either of these conditions may be filed any time after the date of the decision not to file charges under Section 3-810 or the date of the decision of facts-not-sustained.

If the charge was transferred to juvenile court and a petition was filed under Section 3-810 of the Courts and Judicial Proceedings Article and resulted in adjudication of the child as delinquent, the court may grant a petition for expungement on or after the 21st birthday of the petitioner.

General Waiver and Release

In the case of acquittal, dismissal, and nolle prosequi, the person may file earlier than three years after disposition if he files with the petition a General Waiver and Release of all claims the person may have against any person for tortious conduct arising from the charge. Conversely, the three-year period for stet or compromise may not be shortened by filing a waiver and release.

Subsequent Conviction

For PBJ, nolle prosequi, stet, and pardon, the person may not petition for expungement if he has been convicted of any crime or is now a defendant in any pending criminal action since the date of the disposition. This restriction does not apply if the subsequent conviction or criminal action was a violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

Good Cause

Section 737(h) gives the court the authority to grant a petition for expungement upon a showing of good cause by the petitioner, notwithstanding any other provisions in the statute.

Meeting the Client

There are a large number of individuals who have criminal records and need them expunged, so they can seek employment. Many of the clients are overwhelmed by the system facing them, and have tried and failed on their own to have their records expunged.

It is essential at your first meeting to explain to the client the basic timeline that will follow, to avoid getting their hopes up in regard to a speedy resolution. It takes at least 160 days to expunge a criminal record, assuming that it is one of the qualifying records. Aside from explaining your role to the client at your initial meeting, it is important that you obtain pertinent information from the client that will help to expunge his criminal record. The essential facts that need to be discovered are:

- a. the date of each incident
- b. the client's charged offense
- c. the entry of judgement entered in the matter (see II for descriptions)
- d. the court in which each charge was entered
- e. the case number (when a case number is not provided, the tracking number is acceptable)

All or none of this pertinent information may be beyond the recall of the client. The client should obtain a copy of his Criminal Justice Information Systems reports, or CJIS report, which is readily obtainable by the client and contains all of this information. Contact information:

Carole Shelton (410-764-5160)
Director, CJIS Central Repository
1201 Reisterstown Road, Bldg. G
Pikesville, MD 21208

Procedure

The process in Maryland for expungement is primarily to allow the proper governmental bodies time to consider and respond to each petition.

When to File

The section in this manual outlining the requirements for each type of disposition specifies the period after which the petition may be filed for each disposition.

Where to File

The petition must be filed in the original action. If the action was transferred to another court, the petition must be filed in the court to which the action was transferred. If an appeal was taken, the petition must be filed in the circuit court that had jurisdiction over the action.

What to File

It is important to use the appropriate form (Form 4-504.1) and to file enough copies to allow service on the State's Attorney and each law enforcement agency named in the petition. One expungement form is required for each case number. For example, if the client was arrested for one criminal incident, but charged with assault with intent to maim, and possession of a controlled dangerous substance, both could be expunged through one form if both the assault and possession were consolidated in one case. The form to request expungement may be obtained from any district or circuit court in Maryland. A list of Maryland's district and circuit courts is included in the Appendix. As counsel, you will be responsible for filling in the information that the client needs to sign. The entries that can be expunged are listed on the form.

For acquittal, dismissal and nolle prosequi, a General Waiver and Release must be filed along with the petition (use Form 4-503.2).

A waiver of expenses may be filed with the court, if your client qualifies. This form requires personal financial information. The court can grant the waiver in full or in part. For MVLS clients, MVLS will include a Memorandum in the referral packet that it sends to the attorney. The Memorandum will request a waiver without the usual motion and financial statement.

Service

Once the petition is filed, the clerk serves copies on the State's Attorney and the law enforcement agencies named in the petition.

Objections to Expungement

The State's Attorney must file an objection within 30 days after service to contest the petition, and provide a specific statement of the reasons why the petition should not be granted. The State's Attorney must serve a copy of the answer on the petitioner or the attorney of record. Failure of the State's Attorney to file an answer within 30 days constitutes a consent to the expungement as requested.

Hearing

A hearing will be held only if the State's Attorney objects to the petition.

Order

The court's order for expungement of records is a final judgment. Upon entry of the order granting or denying expungement, the clerk serves a true copy of the order on all parties. An order for expungement may be appealed within 30 days after entry of the order.

Thirty days after the entry of an order granting expungement (unless there is a stay), the clerk serves on each custodian of records designated in the order and on the Central Repository a true copy of the order and a blank form of Certificate of Compliance (Form 4-508.3).

Compliance by Custodians of Records

Within 30 days after service of a court order for expungement (60 days after entry of the order), every custodian of police and court records subject to the order shall comply with the order and file a Certificate of Compliance with the court. A copy of the Certificate must be served on the petitioner.

Rules 4-511 and 4-512 specify the procedures that must be followed by the custodians of records to comply with the order.

District Courts

First District--**Baltimore City**--Administrative Clerk Lonnie P. Ferguson, Jr.

- a. Borgerding District Court Building; 5800 Wabash Avenue; Baltimore, MD 21215-3330 (410-878-8000 or 1-800-939-4253)
- b. Eastside District Court Building; 1400 E. North Avenue; Baltimore, MD 21213-1400 (410-878-8500 or 1-800-939-4253)
- c. Southern District; 10 Cherry Hill Road; Baltimore, MD 21225-1159 (410-355-4288 or 1-800-939-4253)
- d. Central Booking; 300 E. Madison Street; Baltimore, MD (410-545-8151 or 1-800-939-4253)

Second District--Administrative Clerk Mary E. Kinnamon

- a. **Dorchester County**--310 Gay Street-P.O. Box 547; Cambridge, MD 21613-1813 (410-221-2580 or 1-800-939-2872)
- b. **Somerset County**—11559 Somerset Avenue; Princess Anne, MD 21853 (410-651-2713 or 1-800-939-7306)
- c. **Wicomico County**—201 Baptist Street; Salisbury, MD 21801 (410-543-6600 or 1-800-940-3267)
- d. **Worcester County**
 1. 301 Commerce Street; Snow Hill, MD 21863 (410-632-3055 or 1-800-941-0282)
 2. 6505 Coastal Highway; Ocean City, MD 21842 (410-723-6935)

Third District—Administrative Clerk Grace D. Achuff

- a. **Caroline County**--Multi-Service Center; 207 S. Third Street; Denton, MD 21629-1229 (410-479-5800 or 1-800-940-4968)
- b. **Cecil County**—170 E. Main Street; Elkton, MD 21921-5943 (410-996-0700 or 1-800-941-0408)
- c. **Kent County**— 103 N. Cross Street; Chestertown, MD 21620-1511 (410-810-3362 or 1-800-941-3347)
- d. **Queen Anne's County**—120 Broadway; Centreville, MD 21617-1092 (410-758-5200 or 1-800-941-3403)
- e. **Talbot County**—108 W. Dover Street; Easton, MD 21601 (410-822-2750 or 1-800-941-2195)

Fourth District—Administrative Clerk Richard A. Parker

- a. **Calvert County**—Multi-Service Center; 200 Duke Street; Prince Frederick, MD 20678-4136 (410-535-8800 or 1-800-941-3375)

- b. **Charles County**—Administrative Clerk Richard A. Parker; 200 Charles Street; P.O. Box 3070; La Plata, MD 20646-3070 (301-932-3300 or 1-800-941-3463)
- c. **St. Mary’s County**—Administrative Clerk Richard A. Parker; c/o Carter State Office Building; 23110 Leonard Hall Drive; Leonardtown, MD 20650 (410-475-4530 or 1-800-943-0091)

Fifth District--**Prince George’s County**—Administrative Clerk Violet O. Owens

- a. 14735 Main Street, Suite 173B; Upper Marlboro, MD 20772 (301-952-4080 or 1-800-943-8853)
- b. 4990 Rhode Island Avenue; Hyattsville, MD 20872 (301-699-2766 or 1-800-943-8853)

Sixth District--**Montgomery County**—Administrative Clerk Jeffrey L. Ward

- a. 27 Court House Square; Rockville, MD 20850-2325 (1-800-944-1341)
- b. 8665 Georgia Avenue; Silver Spring, MD 20910-3405 (301-608-0660 or 1-800-944-1341)

Seventh District--**Anne Arundel County**—Administrative Clerk Rebecca A. Hoppa

- a. 251 Rowe Boulevard; Annapolis, MD 21401 (410-260-1370 or 1-800-944-2688)
- b. George M. Taylor Multi-Service Center; 7500 Gov. Ritchie Highway; Glen Burnie, MD 21061-3756 (410-260-1800 or 1-800-944-2688)

Eighth District--**Baltimore County**—Administrative Clerk Michael P. Vach

- a. 8914 Kelso Drive; Essex, MD 21221-3135 (410-512-2300 or 1-800-944-1826)
- b. 120 E. Chesapeake Avenue; Towson, MD 21286-5307 (410-512-2000 or 1-800-944-1826)
- c. 900 Walker Avenue; Catonsville, MD 21228-5380 (410-512-2500 or 1-800-944-1826)

Ninth District--**Harford County**--Administrative Clerk E. Carol Sweet; 2 South Bond Street; Bel Air, MD 21014-3737 (410-838-2300 or 1-800-943-6344)

Tenth District—Administrative Clerk Nancy E. Mueller

- a. **Carroll County**—Carroll County Annex; 55 N. Court Street; Westminster, MD 21157 (410-386-2365 or 1-800-943-9396)
- b. **Howard County**—3451 Courthouse Driver; Ellicott City, MD 21043-4377 (410-461-0200 or 1-800-944-8107)

Eleventh District—Administrative Clerk Dixie L. Scholtes

- a. **Frederick County**—100 W. Patrick Street; Frederick, MD 21701 (301-694-2000 or 1-800-945-2119)

- b. **Washington County**—36 W. Antietam Street; Hagerstown, MD 21740
(240-420-4600 or 1-800-945-1406)

Twelfth District—Administrative Clerk Kathleen M. Stafford

- a. **Allegany County**—Allegany County Office Building; 3 Pershing Street, 2nd Floor; Cumberland, MD 21502-3045 (301-777-2105 or 1-800-946-3952)
- b. **Garrett County**—205 South Third Street; Oakland, MD 21550-1526 (301-334-8164 or 1-800-947-1029)

Circuit Courts

Allegany County—Acting Clerk Dawne E. Lindsey; Court House; 30 Washington Street; Cumberland, MD 21502 (301-777-5922)

Anne Arundel County—Clerk Robert P. Duckworth; Court House; Church Circle; Annapolis, MD 21401 (410-222-1397)

Baltimore City—Clerk Frank M. Conaway (410-333-3750)

- a. Courthouse East; 111 N. Calvert Street; Baltimore, MD 21202
- b. Clarence M. Mitchell, Jr. Courthouse; 100 N. Calvert Street; Baltimore, MD 21202

Baltimore County—Clerk Suzanne Mensh; County Courts Building; 401 Bosley Avenue; Towson, MD 21204 (410-887-2601)

Calvert County—Clerk Kathy P. Smith; Calvert County Courthouse; 175 Main Street; Prince Frederick, MD 20678 (410-535-1660)

Caroline County—Clerk F. Dale Minner; Court House; P.O. Box 458; Denton, MD 21629
(410-479-1811)

Carroll County—Clerk Larry W. Shipley; 55 N. Court Street; Westminster, MD 21157 (410-386-2026)

Cecil County—Clerk William L. Brueckman; 129 E. Main Street; Elkton, MD 21921 (410-996-5370)

Charles County—Clerk Donna G. Burch; 200 Charles Street; LaPlata, MD 20646 (301-932-3202 or 301-870-2659)

Dorchester County—Clerk Michael L. Baker; 206 High Street; P.O. Box 150; Cambridge, MD 21613
(410-228-0481)

Frederick County—Clerk Sandra K. Dalton; 100 West Patrick Street; Frederick, MD 21701
(301-694-1976)

Garrett County—Clerk David K. Martin; 203 S. 4th Street, Room 209; P.O. Box 447; Oakland, MD 21550 (301-334-1941)

Harford County—Clerk Charles G. Hiob, III; 20 W. Courtland Street; Bel Air, MD 21014
(410-638-3426 or 410-879-2000)

Howard County—Clerk Margaret D. Rappaport; Court House; Ellicott City, MD 21043 (410-313-2111)

Kent County—Clerk’s Office; 103 N. Cross Street; Chestertown, MD 21620 (410-778-7460 or 1-800-989-2520)

Montgomery County—Clerk Molly Q. Ruhl; 50 Maryland Avenue; Rockville, MD 20850 (240-777-9466)

Prince George’s County—Clerk Rosalyn E. Pugh; Court House; 14735 Main Street; Upper Marlboro, MD 20772 (301-952-3318)

Queen Anne’s County—Clerk’s Office; Court House; 100 Court House Square; Centreville, MD 21617 (410-758-1773 or 1-800-987-7591)

St. Mary’s County—Clerk Evelyn W. Arnold; 23150 Leonard Hall Drive; Leonardtown, MD 20650 (301-475-4567)

Somerset County—Clerk I. Theodore Phoebus; Court House; 30512 Prince William Street; Princess Anne, MD 21853 (410-651-1555)

Talbot County—Clerk Mary Ann Shortall; Court House; P.O. Box 723; Easton, MD 21601 (410-822-2611 or 1-800-339-3403)

Washington County—Clerk Dennis J. Weaver; 95 West Washington Street; Hagerstown, MD 21740 (301-733-8660)

Wicomico County—Clerk Mark S. Bowen; P.O. Box 198; Salisbury, MD 21803-0198 (410-543-6551)

Worcester County—Clerk Stephen V. Hales; Court House, Room 104; One W. Market Street; P.O. Box 40; Snow Hill, MD 21863 (410-632-1221)