



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2025 Session
HB0499

Criminal Records - Expungement and Maryland Judiciary Case Search (Expungement Reform Act of 2025)

Bill Summary

This Administration bill (1) alters various statutory provisions relating to waiting periods for the filing of a petition to expunge a conviction under §§ 10-105 or 10-110 of the Criminal Procedure Article; (2) expands the list of misdemeanor convictions eligible for expungement under § 10-110; (3) expands the factors a court must consider for an expungement under § 10-110; and (4) prohibits the Maryland Judiciary case search from referring in any way to a charge resulting in *nolle prosequi* with required drug or alcohol treatment, a charge marked “stet” on the docket at least three years previously, and charges of possession of cannabis (in a case with electronic records) if the charge resulted in a conviction that was later pardoned by the Governor.

Racial Equity Impact Statement

The bill will likely increase the number of ex-offenders eligible for expungement of all or part of their criminal record and allow individuals with no final disposition or specified pardoned convictions to have those records masked in electronic court records. These measures will positively impact individuals experiencing the adverse consequences of having a criminal record, especially in the areas of employment and economic security. Based on data from the Division of Parole and Probation (DPP), the Administrative Office of the Courts (AOC), and the Department of State Police, the bill will impact a significant number of individuals. Black individuals may benefit to the greatest extent given their general overrepresentation in the criminal justice system. The exact magnitude of the impact cannot be reliably estimated without specific longitudinal and demographic data on expungement petitions and outcomes and the population eligible for masking of electronic records.

Analysis

The bill's provisions generally expand expungement eligibility by (1) allowing individuals who have violated probation or other terms of their sentence for specified offenses to remain eligible for expungement; (2) expanding the list of misdemeanors eligible for expungement consideration; and (3) requiring specified court records of charges and convictions to be masked or otherwise made inaccessible in the Judiciary case search system. The bill also expands the list of factors a court must consider when determining expungement eligibility.

Eligibility for Expungements – Waiting Periods

The bill alters language in existing law to redefine “completion of sentence” in the context of expungement petition eligibility. Current law mandates satisfactory completion of an individual's sentence in order for their criminal conviction to be considered eligible for expungement. The bill defines “completion of sentence” as the time when a sentence has expired, including any period of probation, parole, or mandatory supervision, which effectively includes individuals who have violated probation or other terms of their sentence.

In November 2022, the Appellate Court of Maryland upheld a lower court ruling that if an individual violates their terms of probation, it does not satisfy the requirement in the expungement statute that allows expungement only after the person satisfies the sentence imposed for the conviction sought to be expunged, including parole, probation, or mandatory supervision. Thus, under the court's ruling, a parole violation renders the underlying conviction indefinitely ineligible for expungement.

Expansion of Convictions Eligible for Expungement

Under current law, § 10-110 of the Criminal Procedure Article authorizes an individual convicted of any of a list of approximately 100 specified offenses, or an attempt, a conspiracy, or a solicitation of any of these offenses, to file a petition for expungement of the conviction, subject to specified procedures and requirements. The bill expands eligibility for expungement under § 10-110 to include convictions for misdemeanor offenses involving credit card theft, counterfeit prescriptions, resisting or interfering with an arrest, false statement to a law enforcement officer, false statement when under arrest, and driving without a license.

Factors Courts Must Consider for Expungements

Under current law, the court must order the expungement of all police records and court records about a charge after a hearing, if the court finds and states on the record (1) that the person and conviction are eligible for expungement under specified statutory provisions; (2) that giving due regard to the nature of the crime, the history and character of the person, and the person's success at rehabilitation, the person is not a risk to public safety; and (3) that an expungement would be in the interest of justice.

The bill adds the person's success at completing court-ordered probation as a required consideration when evaluating the petitioner's risk to public safety. The bill also requires the court

to make a finding on the record that the person has paid any monetary restitution ordered by the court in the original proceeding or does not have the ability to pay the restitution.

Judiciary Case Search

Under current law, the Judiciary case search may not in any way refer to the existence of records of a charge in a case with electronic records if the charge resulted in acquittal; dismissal; or *nolle prosequi*, except *nolle prosequi* with the requirement of drug or alcohol treatment. The bill removes this exception. The bill also prohibits referral to electronic records for charges marked inactive (or stet) at least three years previously and for charges of possession of cannabis that resulted in a conviction later pardoned by the Governor.

Impacts of the Bill

The bill's provisions removing the requirement that an individual complete a sentence satisfactorily effectively shortens the waiting period for expungement eligibility and increases the number of people who would be eligible to petition a court for expungement. Specifically, individuals who had minor or technical violations of their parole or probation would be eligible to start the expungement process and would be more likely to succeed. DPP reports that 36% of the 18,000 individuals under general supervision in 2023 did not successfully complete the terms of their supervision. Unsuccessful completion included commission of new offenses and other unsatisfactory behavior. Technical parole violations accounted for 6% of the total. According to the Department of Public Safety and Correctional Services, technical violations include:

- failure to get permission before changing home address or changing job;
- failure to obtain permission to leave the State; and
- failure to meet restitution payment obligations (arrearage of three or more monthly payments).

The newly eligible offenses available for expungement under the bill will benefit another subset of the population who have convictions for these offenses. In fiscal 2024, 5,041 individuals were convicted in both the district and circuit courts for this group of offenses that would be newly eligible for expungement under the bill. Convictions for driving without proper license authorization comprise 89% of the total.

The bill's provisions that require the Judiciary to remove references in electronic records to inactive cases marked "stet," specified *nolle prosequi* cases, and cannabis possession convictions pardoned by the Governor are likely to be highly impactful for affected individuals. The Governor pardoned 175,000 Maryland cannabis convictions in 2024.

According to AOC, there were 46,251 petitions for expungement in fiscal 2023 and 54,069 petitions for expungement in fiscal 2024 in both the district and circuit courts. There is no demographic data currently available that indicates the racial and ethnic composition of expungement applicants.

Existing data indicates that Black offenders and potentially other minorities will benefit the most from the bill's expansion of expungement and electronic record rules. Black individuals make up

72% of the State’s prison population contrasted with their 29% share of the overall adult population in the State. In addition, Black individuals are 59% of the criminal population under supervision in the community in 2023. Black individuals are also disproportionately subjected to traffic stops. While there is no demographic data available for those convicted of the new offenses eligible for expungement under the bill, the offense with the largest number of convictions in the courts – driving without a license – suggests that traffic stop activity will affect the number of charges and convictions for this offense. Black individuals accounted for 43% of traffic stops and 47% of arrests during a traffic stop in 2023, while white individuals, which comprise 47% of the overall adult population in the State, accounted for 39% of traffic stops and 36% of arrests. For cannabis violations, according to AOC data between 2010 and 2021, Black individuals comprised 67% of those charged for various possession violations compared to 30% of their white counterparts.

Assuming trends for expungement applications mimic trends for charges, convictions and incarceration in the State, there would be both a significant number and percentage of Black individuals who would benefit under the bill. Representing a disproportionate share of the charged, arrested, convicted, and incarcerated population, it is a reasonable assumption that Black individuals comprise a meaningful portion of the population with expungement eligible records.

Beyond the immediate impact on expungement eligibility, the bill’s provisions may yield further positive outcomes as evidence suggests that those who are able to expunge their criminal records are more likely to be employed and have higher wages than those who are not. Previous research has detailed the collateral consequences to having a criminal record. These adverse effects include reduced access to housing, public services, voting, holding public office, employment opportunities, and professional licensure. These difficulties in turn can increase recidivism and could perpetuate a larger cycle of involvement in the carceral system.

Conclusion

While the number of eligible expungement applications would likely increase under the bill, the exact impact cannot be reliably estimated without additional disposition and demographic data on (1) applications that are rejected based on the failure to satisfactorily complete a sentence; (2) the additional expungement eligible offenses added by the bill; and (3) data on court expungement denials based on the court’s assessment of a petitioner’s risk to public safety. The number of cases eligible for electronic record masking would also assist in assessing the magnitude of the bill’s impact since the bill will likely affect the court records of tens of thousands of people. Accordingly, the bill would likely alleviate some of the negative outcomes of having a criminal history record by increasing successful expungement rates. These impacts would be most significant for Black individuals who face convictions and imprisonment at disproportionately high rates. The bill’s requirement for a court to consider satisfactory completion of a defendant’s sentence and whether restitution has either been satisfied or exempted due to hardship may put limitations on the ability to receive an expungement but only to the extent that a court denies expungement in individual cases.

Information Sources: Pew Charitable Trusts; Department of Public Safety and Correctional Services; Department of State Police; Administrative Office of the Courts; Division of Parole and

Probation; Governor's Office of Crime Prevention and Policy; Appellate Court of Maryland;
Department of Legislative Services

Analysis by: Dr. Mikaela Zimmerman

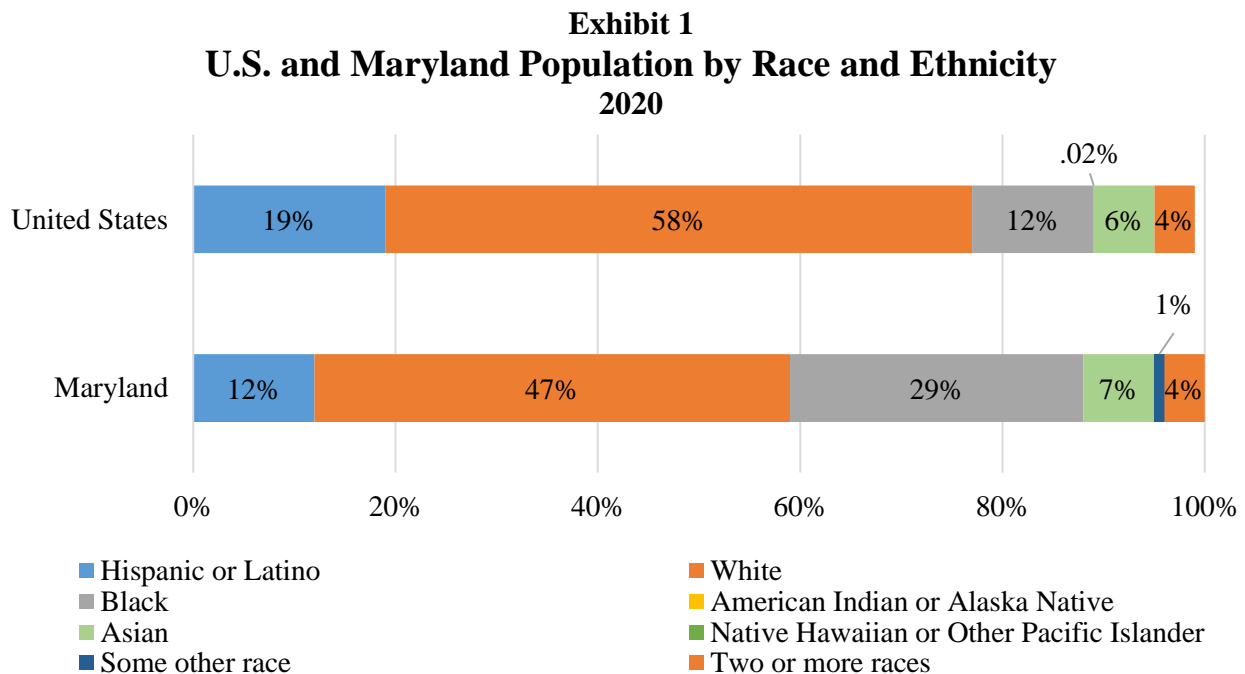
Published: 02/13/2025

Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.