

## **CLEANING UP YOUR CRIMINAL RECORD**

### **EXPUNGEMENT**

#### **WHAT IS EXPUNGEMENT?**

Expungement removes the information about a criminal offense from court and law enforcement records. It usually applied to records that did not result in a conviction, although some convictions will qualify. In order to do this, a petition must be filed with the court ***where the crime occurred.***

A judge must determine whether or not the petition can be granted.

But your case must meet certain conditions and a timeline first.

***Time passed begins counting AFTER you complete your sentence (including probation) or court-ordered treatment.***

#### **WHY IS EXPUNGEMENT IMPORTANT?**

There are many benefits to getting your criminal record expunged. Regardless of how much you have changed, and how much you are working to put your past behind you, your criminal record remains as a blemish that will impede seeking employment, housing, credit, or continuing your education. Although the process can be lengthy and somewhat daunting, it is well worth the effort. And we are here to help you.

#### **CAN A FELONY CHARGE BE EXPUNGED**

In general, the outcome or disposition of your case will determine whether a specific record can be expunged or not. It doesn't matter if your charge was a misdemeanor or a felony.

#### **HOW DO I KNOW IF MY RECORD CAN BE EXPUNGED?**

#### **LET'S TAKE A LOOK**

If you were a defendant in a criminal case, you may file a petition for *expungement if you meet these conditions:*

#### **IF:**

- Maryland's Governor pardoned you within the past 10 years; or
- YOU CAN SHOW GOOD CAUSE (more about this later!); or
- The crime on your conviction is NO LONGER A CRIME; or
- The case was filed against you in criminal court first, and then later was transferred to juvenile court\*\*

**\*\* THIS IS IMPORTANT:** *If you were charged as an adult and your case was transferred to juvenile court, you have TWO RECORDS. You will need to expunge both the adult and juvenile portion of the record. The adult charge will NOT AUTOMATICALLY DISAPPEAR.*

**If 3 years have passed OR you file a General Waiver and Release Form (FORM CC-DC-CR-078) AND:**

- You were found not guilty ("acquitted"); **OR**
- The state did not prosecute the charge against you (this is called "nolle prosequi") or nolle prosequi with the requirement of drug or alcohol treatment is entered; **OR**
- Your case was dismissed.

*NOTE: Filing a General Waiver and Release Form waives certain legal rights, so you might want to speak to a lawyer first.*

**IF 4 YEARS HAVE PASSED AND:**

- You were convicted of *possession* of marijuana

**IF 3 YEARS HAVE PASSED AND:**

- You received **probation before judgement** (except DUI/DWI), *BUT your case cannot be expunged if you have another conviction after this one (except for a minor traffic offense OR if you are a defendant in another criminal case); or*
- The court indefinitely postponed your case - which is called "**stet**"; **or**
- The crime you were convicted of or found not criminally responsible for is listed in MD Code, Criminal Procedure 10-105(a)(9) - in other words certain **Nuisance Crimes**.

**Here's the list:**

- urination or defecation in a public place

- panhandling or soliciting money
- drinking an alcoholic beverage in a public place
- obstructing the free passage of another in a public place or a public conveyance
- sleeping on or in park structures, such as benches or doorways
- loitering
- vagrancy
- riding a transit vehicle without paying the fare or exhibiting proof of payment
- except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in 7-705(b)(6) of the Transportation Article, any of the acts specified in 7-705 of the Transportation Article.

### **Here's Transportation Article 7-705**

- Failure to pay fare in required manner
- Failure to pay applicable fare
- Failure to exhibit proof of payment
- Failure to provide truthful identification
- Expectorating (spitting) in transit vehicle, transit facility, or train
- Smoking or carrying lighted tobacco products in transit vehicle, transit facility, or train
- Consuming food or drink or carrying open food or beverage container in transit vehicle, transit facility, or train
- Discarding litter in transit vehicle, transit facility, or train
- Playing or operating radio, tape player, or similar electronic device in transit vehicle, transit facility, or train
- Carrying or possessing live animals in transit vehicle, transit facility, or train
- Boarding transit vehicle through rear door
- Urinating or defecating in transit vehicle, transit facility or train
- Failure to move to rear of transit when requested to do so
- Failure to vacate elderly or handicapped seat when requested to do so
- Except as by contract with the Mass Transit Administration, soliciting the purchase of goods or services in transit vehicle, transit facility, or train
- Obstructing/hindering/interfering with the operation or operator of transit vehicle or railroad passenger car

- You were found not criminally responsible for **trespass, disturbing the peace, or telephone misuse.**

#### **IT 10 YEARS HAVE PASSED AND:**

- You were convicted of a misdemeanor listed in **Md. Code, Criminal Procedure 10-110.** (*You will find the entire Article HERE*)

*This is a list of 26 misdemeanors that may not be filed before 10 years after the petitioner satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. These include articles related to alcoholic beverages; Business Occupations and Professions; Business Regulations; Court Articles; Commercial Law; Criminal Procedures; Criminal Law; Election Law; Family Law; Health Law; Human Services; Insurance Articles; Public Safety; Real Property; Tax Law; Common Law offenses of affray, rioting, criminal contempt, battery, hindering, conspiracy.*

**NOTE:** *You may want assistance from an attorney*

#### **IF 15 YEARS HAVE PASSED AND:**

- You were convicted of common law battery (assault) (Md. Code, Criminal Law 3-203);  
**OR**
- You were convicted of a domestically related crime listed in Md. Code, Criminal Procedure 6-233

#### **HERE ARE A LIST OF THINGS THAT YOU **CANNOT** FILE FOR EXPUNGEMENT:**

- ✓ If you received a PBJ, and were later convicted of a new crime within 3 years of the PBJ, you cannot get the PBJ expunged - unless the new conviction was a minor traffic violation or something that is no longer a crime.
- ✓ You cannot file for expungement of **ANY** records if you currently have criminal proceedings pending against you.
- ✓ If you are convicted of a crime during the specified waiting period, you are not eligible for expungement unless the subsequent conviction becomes eligible for expungement.
- ✓ You cannot get a PBJ expunged if the PBJ was for certain alcohol related driving offenses.

- ✓ The court has no authority to expunge aliases or grant an expungement in cases of identity theft.

### **WHAT IF I WAS ARRESTED BUT NO CHARGE WAS EVER FILED AGAINST ME?**

If you were arrested **on or after October 1, 2007** and not charged with a crime, your arrest will be automatically expunged within 60 days of our release from custody.

If you were arrested **before October 1, 2007**, you may need to contact the local arresting police department and ask them to clear the record.

### **I THINK I HAVE EXPUNGEABLE RECORDS. NOW WHAT?**

If you think you have things that can be cleaned up on your record, move on the next step. Remember, even if you can't expunge everything, cleaning up what you can from your record will help!

Go to the section: **How to Find and Read My Record**

