



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2024 Session
SB1030

Criminal Procedure - Expungement of Records - Good Cause

Bill Summary

This bill establishes that, after consideration of specified factors, a court may grant a petition for expungement filed under § 10-110 of the Criminal Procedure Article on a showing of good cause at any time after the person (petitioner) satisfies the sentence or sentences imposed for a conviction for which expungement is requested, including parole, probation, or any other mandatory supervision. A person may petition for expungement on a showing of good cause once every five years for a specific charge. A denied petition for expungement for good cause may not be appealed.

Racial Equity Impact Statement

The bill would allow for the expungement of specified convictions several years earlier than under existing law for good cause as determined by a court. This could help mitigate the adverse impacts resulting from a conviction for individuals who have difficulty obtaining employment, housing, education, licensing, and other government services as a result of a criminal record. There is no data available to measure specific impacts, but national and State data confirm that Black individuals are overrepresented in the criminal justice system and often experience higher rates of unemployment. Individuals with criminal convictions covered under the bill (over 100 offenses) would benefit to the extent that (1) they take advantage of the earlier expungement opportunities and (2) the court grants expungements under the good cause process.

Analysis

The bill would give individuals the opportunity to petition the court for expungement of eligible criminal convictions under § 10-110 of the Criminal Procedure Article following the satisfaction of their sentence on the basis of good cause. The court must consider (1) the nature of the crime; (2) the person's character and history; (3) the person's risk to public safety; (4) any successful

rehabilitation; and (5) the impact the charge has on the person's ability to secure employment, education, housing, public assistance, licensing, and opportunities for economic stability. While an individual may petition the court once every five years for a specific charge, denials by the court of good cause expungements cannot be appealed.

Expungements – Section 10-110 of the Criminal Procedure Article

In general, a person seeking expungement of records pertaining to a criminal charge must file a petition for expungement with the court under § 10-105 or § 10-110 of the Criminal Procedure Article. With some exceptions, § 10-105 applies to dispositions other than a conviction, and § 10-110 applies to expungements of convictions.

Section 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.

In general, a petition to expunge a misdemeanor conviction under § 10-110 cannot be filed earlier than 10 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. A petition to expunge a conviction for second-degree assault, common law battery, a “domestically related crime,” or a felony may not be filed earlier than 15 years after the person satisfies the sentence or sentences imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision. A person who is convicted of possession with the intent to distribute cannabis under § 5-602(b)(1) of the Criminal Law Article may file a petition for expungement of the conviction 3 years after satisfaction of the sentence(s) imposed for all convictions for which expungement is requested, including parole, probation, or mandatory supervision.

While petitioners under both statutes must comply with specified waiting periods, a court is authorized to grant a petition for expungement filed under § 10-105(c)(9) of the Criminal Procedure Article at any time on a showing of good cause. This provision addresses a court's authority to grant a petition for expungement outside the statutory time requirements when all other eligibility criteria have been met. Determinations of good cause are at the discretion of the court.

Collateral Consequences of a Criminal Record

Expungement, in general, is intended to help mitigate the adverse consequences of having a criminal record, which can last beyond imprisonment, fines, and the legal process and can include the denial of civil opportunities and benefits available to a person due to their record. Specifically, having a criminal history can adversely affect employment prospects which can further influence an individual's level of income, housing opportunities, and access to quality health care.

Employment is key to stable housing and homeownership and a variety of State and national data shows that higher incomes can lead to the stability and consistency necessary to accumulate the various upfront resources needed to buy a home. Monetary savings for down payments and good credit scores are necessary to achieve initial homeownership and are largely driven by an

individual's employment status and level of income. Employment also often dictates one's access to health care. Certain jobs do not offer health insurance benefits and access to jobs with such benefits may be restricted by an attachment to a criminal record. A criminal record can therefore impose significant barriers to upward socioeconomic mobility.

Impacts of the Bill

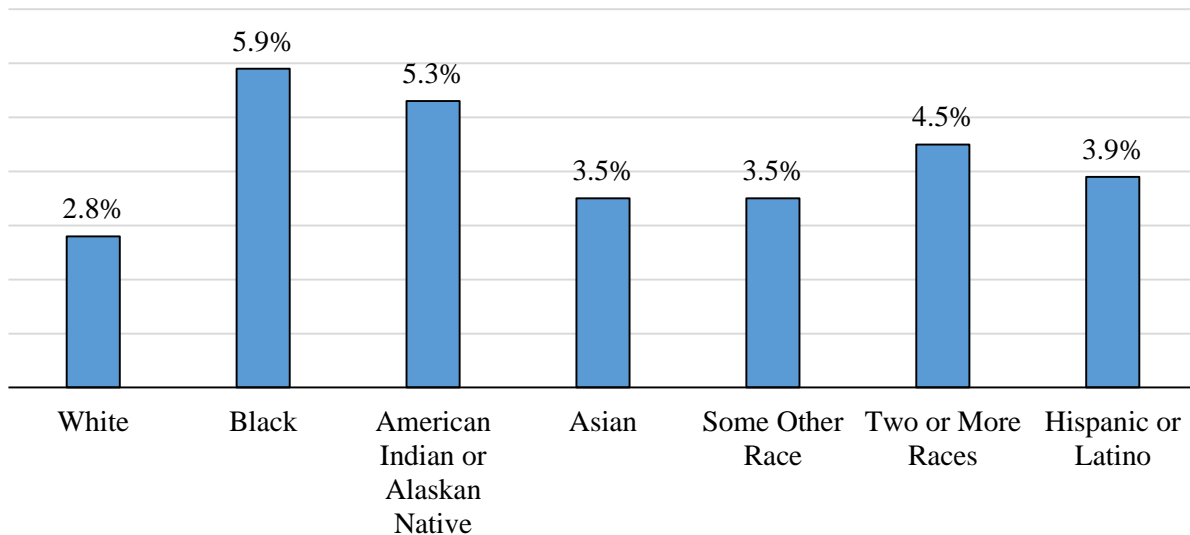
According to the Administrative Office of the Courts, there were 38,448 petitions for expungement in Maryland's circuit courts and the District Court in fiscal 2022 and 46,251 petitions in fiscal 2023. There is currently no demographic data available that indicates the racial and ethnic composition of individuals impacted by expungement.

National and State data consistently show that racial minorities experience disproportionate levels of adversity in the areas of life affected by a criminal record. National studies have found that there is a significant negative effect of having a criminal record on employment outcomes that appears substantially larger for Black individuals. **Exhibit 1** shows that in 2022, the unemployment rate in Maryland was highest among Black job seekers and over twice the rate of white job seekers in the State.

The Department of Public Safety and Correctional Services reports that, for fiscal 2023, Black individuals made up 71% of Maryland's prison population contrasted with their 29% share of the State's overall population.

The bill's good cause expungement provisions will likely impact Black individuals to a greater extent as these individuals are overrepresented in charges, arrests, and incarceration for many crimes at a disproportionately high rate, making them also disproportionately affected by the collateral consequences of criminal records, which is specifically taken into consideration under the good cause process.

Exhibit 1
Unemployment Rate in Maryland
by Race and Ethnicity
2022



Source: U.S. Census Bureau

Conclusion

The bill's provisions offering good cause expungement for the convictions specified in the bill will enable successful applicants to refrain from disclosing certain convictions and contacts that may prevent them from achieving employment and all the ancillary benefits and opportunities that come with it, such as improved housing and health care opportunities. The provisions of the bill will likely impact Black individuals to a greater extent as these individuals are incarcerated at disproportionately high rates in Maryland. The exact equity impacts of the bill cannot be estimated without additional data including historical demographic data on expungement applicants, individuals eligible for expungement under the bill, and prospective employment data for individuals with expunged records. Additionally, future equity analysis may benefit from the disclosure of demographic data of those granted expungement on the grounds of showing good cause.

Information Sources: U.S. Census Bureau; Department of Public Safety and Correctional Services; Governor's Office of Crime Prevention and Policy; Administrative Office of the Courts; Department of Legislative Services

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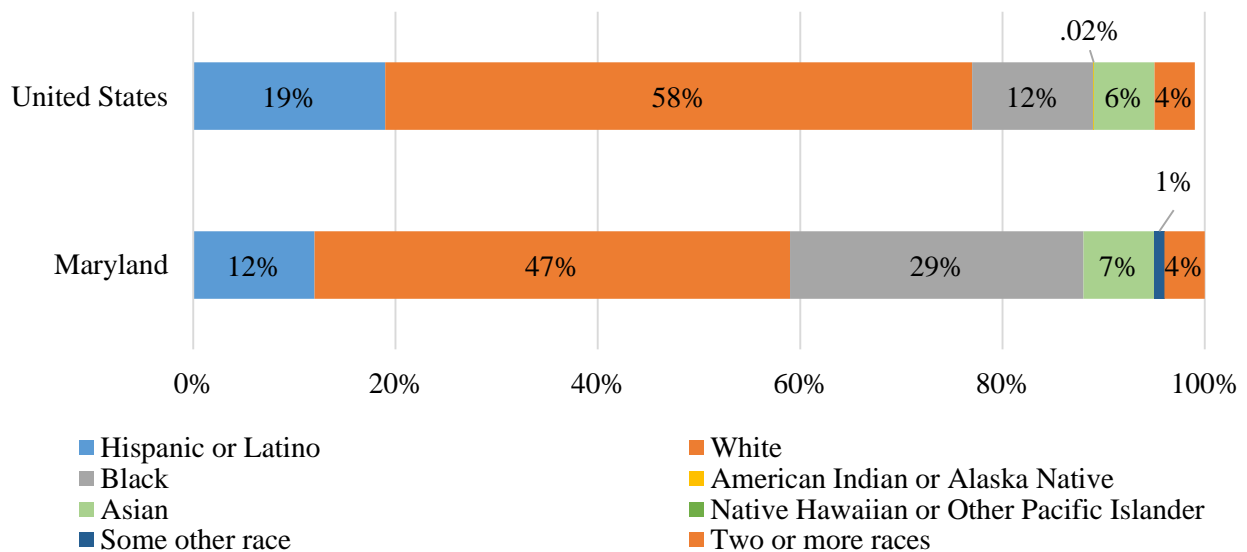
Appendix – Maryland Demographics

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.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



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.