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**HOUSE / SENATE BILL \_\_\_\_\_**

2015 Regular Session

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By:

Introduced and read first time:

Assigned to:

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**A BILL ENTITLED**

**AN ACT concerning**

**SAFER COMMUNITIES CONCILIATION ACT**

**FOR the purpose of**

Recognizing that both evidence-based studies and Maryland experience show great effectiveness of alternate dispute resolutions methods in successfully and quickly resolving juvenile and misdemeanor offenses; providing incentive for defendants' participation in community mediation, community conferencing, and similar restorative justice practices to benefit crime victims and defendants; reducing unnecessary criminal records that may impede future employment opportunities.

**BY amending**

Article – Criminal Procedure  
Section 10-105 ( c )  
Annotated Code of Maryland  
( Replacement Volume)

SECTION 1. Whereas research demonstrates that victim–offender mediation produces positive effects for both victims and offenders: victims who confront their offenders generally are more satisfied with the process than victims whose cases are handled in the court system and are less fearful of being revictimized; similarly, offenders who face their victims through mediation are far more likely to be held directly accountable for their behavior, successfully complete their restitution obligations, and subsequently commit fewer and less serious crimes. (Source: U.S. Office of Juvenile Justice & Delinquency Prevention - [http://www.ojjdp.gov/mpg/litreviews/Restorative\\_Justice.pdf](http://www.ojjdp.gov/mpg/litreviews/Restorative_Justice.pdf) )

Whereas some Maryland counties also report successful use of Community Conferencing, Community Mediation and similar “restorative justice” programs to satisfy victims’ needs, avoid defendants’ recidivism and save the time and costs of prosecution in many juvenile delinquency and adult offenses. Whereas offenders their families and the public would benefit from a system that added incentives resolution through restorative justice so offenders can maintain a clean record and improve their employment prospects.

SECTION 2. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

§ 10-105. Expungement of record after charge is filed

... (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.

(2) A petition for expungement based on a probation before judgment or a stet with the requirement of drug or alcohol abuse treatment OR WITH RESOLUTION BY COMMUNITY CONFERENCING, COMMUNITY MEDIATION, OR SIMILAR AGREEMENT may not be filed earlier than the later of:

(i) the date the petitioner was discharged from probation or the requirements of obtaining drug or alcohol abuse treatment were completed; or (ii) 3 years after the probation was granted or stet WITH RESOLUTION BY COMMUNITY CONFERENCING, COMMUNITY MEDIATION, OR SIMILAR AGREEMENT with the requirement of drug or alcohol abuse treatment was entered on the docket.

(3) A petition for expungement based on a nolle prosequi with the requirement of drug or alcohol treatment may not be filed until the completion of the required treatment OR RESOLUTION BY COMMUNITY CONFERENCING, COMMUNITY MEDIATION, OR SIMILAR AGREEMENT. ...

Copy of petition for expungement served on State's Attorney

(d)(1) The court shall have a copy of a petition for expungement served on the State's Attorney.

(2) Unless the State's Attorney files an objection to the petition for expungement within 30 days after the petition is served, the court shall pass an order requiring the expungement of all police records and court records about the charge.

Objection to petition by State's Attorney

(e)(1) If the State's Attorney files a timely objection to the petition, the court shall hold a hearing.

(2) 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.

(3) If the court finds that the person is not entitled to expungement, the court shall deny the petition.

(4) The person is not entitled to expungement if:

(i) the petition is based on the entry of probation before judgment, a nolle prosequi, a stet, including a nolle prosequi with the requirement of drug or alcohol treatment or a stet with the requirement of drug or alcohol abuse treatment OR RESOLUTION BY COMMUNITY CONFERENCING, COMMUNITY MEDIATION, OR SIMILAR AGREEMENT, a conviction for a crime specified in subsection (a)(9) of this section, a finding of not criminally responsible, or the grant of a pardon by the Governor; and

(ii) the person:

1. since the full and unconditional pardon, entry, finding of not criminally responsible, or conviction has been convicted of a crime other than a minor traffic violation; or
2. is a defendant in a pending criminal proceeding.

SECTION 2 . AND BE IT FURTHER ENACTED, That sections 1 of this Act shall take effect on July 1, 2016.

Last Revision 11/24/14

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