

FIRST REGULAR SESSION

HOUSE BILL NO. 972

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLINGTON.

2065L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 610.140, RSMo, and to enact in lieu thereof one new section relating to the expungement of certain criminal records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 610.140, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.140, to read as follows:

610.140. 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person **plead guilty or** was found guilty of any of the offenses specified in subsection 2 of this section for an order to expunge **from all official records all** recordations of such arrest, plea, trial, or conviction. A person may apply to have one or more offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition and so long as all such offenses are eligible under subsection 2 of this section.

2. The following offenses are eligible to be expunged when such offenses occurred within the state of Missouri and were prosecuted under the jurisdiction of a Missouri municipal associate or circuit court:

(1) **All nonviolent crimes;**

(2) Any [felony or] misdemeanor offense [of passing a bad check under 570.120, fraudulently stopping payment of an instrument under 570.125, or fraudulent use of a credit device or debit device under section 570.130]; **and**

[(2) Any misdemeanor offense of sections 569.065, 569.067, 569.090, subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145, 572.020, 574.020, or 574.075; or]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) [Any class B or C misdemeanor offense of section 574.010] **All nonviolent drug**
19 **violations.**

20 3. The petition shall name as defendants all law enforcement agencies, courts,
21 prosecuting or circuit attorneys, central state repositories of criminal records, or others who the
22 petitioner has reason to believe may possess the records subject to expungement for each of the
23 offenses listed in the petition. The court's order of expungement shall not affect any person or
24 entity not named as a defendant in the action.

25 4. The petition shall be dismissed if it does not include the following information:

26 (1) The petitioner's:

27 (a) Full name;

28 (b) Sex;

29 (c) Race;

30 (d) Driver's license number, if applicable; [and]

31 (e) Current address;

32 **(f) Date of birth; and**

33 **(g) Social Security number;**

34 (2) Each offense charged against the petitioner for which the petitioner is requesting
35 expungement;

36 (3) The date the petitioner was arrested for each offense;

37 (4) The name of the county where the petitioner was arrested for each offense and if any
38 of the offenses occurred in a municipality, the name of the municipality for each offense;

39 (5) The name of the agency that arrested the petitioner for each offense;

40 (6) The case number and name of the court for each offense; and

41 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition
42 for expungement which will be forwarded to the central repository for the sole purpose of
43 positively identifying the petitioner.

44 5. The court may set a hearing on the matter no sooner than thirty days from the filing
45 of the petition and shall give reasonable notice of the hearing to each entity named in the
46 petition. At the hearing, the court may accept evidence and hear testimony on, and may consider,
47 the following criteria for each of the offenses listed in the petition for expungement:

48 (1) [It has been at least twenty years if the offense is a felony, or at least ten years if the
49 offense is a misdemeanor, municipal offense, or infraction, since the person making the
50 application completed:

51 (a) Any sentence of imprisonment; or

52 (b) Any period of probation or parole;

53 (2) The person has not been found guilty of a misdemeanor or felony, not including
54 violations of the traffic regulations provided under chapters 304 and 307, during the time period
55 specified for the underlying offense in subdivision (1) of this subsection;

56 (3) The person has paid any amount of restitution ordered by the court;

57 (4) The circumstances and behavior of the petitioner warrant the expungement; and

58 (5) The expungement is consistent with the public welfare] **At least four years has**
59 **elapsed since the person making the application has completed:**

60 (a) **His or her imprisonment, if sentenced to jail or prison;**

61 (b) **His or her period of probation, if placed on probation; or**

62 (c) **His or her parole, if placed on parole; and**

63 (2) **The person has:**

64 (a) **Graduated from high school or has received a GED; and**

65 (b) **Graduated from an institution of higher education with at least an associate's**
66 **degree or maintains employment with the same employer for at least two consecutive years**
67 **prior to filing the petition for expungement;**

68 (c) **Completed seven hundred hours of community service; and**

69 (d) **Not been convicted of a misdemeanor or felony, or been placed on probation for**
70 **a misdemeanor or felony during the four-year period specified in subdivision (1) of this**
71 **subsection. For purposes of this paragraph, any moving traffic violations shall not be**
72 **considered.**

73 6. If the court determines at the conclusion of the hearing that such person meets all the
74 criteria set forth in subsection 5 of this section for each of the offenses listed in the petition for
75 expungement, the court [may] **shall** enter an order of expungement. A copy of the order shall
76 be provided to each entity named in the petition, and, upon receipt of the order, each entity shall
77 destroy any record in its possession relating to any offense listed in the petition. If destruction
78 of the record is not feasible because of the permanent nature of the record books, such record
79 entries shall be blacked out. Entries of a record ordered expunged shall be removed from all
80 electronic files maintained with the state of Missouri, except for the files of the court. The
81 records and files maintained in any administrative or court proceeding in a municipal, associate,
82 or circuit court for any offense ordered expunged under this section shall be confidential and only
83 available to the parties or by order of the court for good cause shown. The central repository
84 shall request the Federal Bureau of Investigation to expunge the records from its files.

85 7. The order shall not limit any of the petitioner's rights that were restricted as a
86 collateral consequence of such person's criminal record, and such rights shall be restored upon
87 issuance of the order of expungement. Except as otherwise provided under this section, the
88 effect of such order shall be to restore such person to the status he or she occupied prior to such

89 arrests, pleas, trials, or convictions as if such events had never taken place. No person as to
90 whom such order has been entered shall be held thereafter under any provision of law to be guilty
91 of perjury or otherwise giving a false statement by reason of his or her failure to recite or
92 acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry
93 made of him or her and no such inquiry shall be made for information relating to an
94 expungement, except the petitioner shall disclose the expunged offense to any court when asked
95 or upon being charged with any subsequent offense. The expunged offense may be considered
96 a prior offense in determining a sentence to be imposed for any subsequent offense that the
97 person is found guilty of committing.

98 8. Notwithstanding the provisions of subsection 7 of this section to the contrary, a person
99 granted an expungement shall disclose any expunged offense when the disclosure of such
100 information is necessary to complete any application for:

101 (1) A license, certificate, or permit issued by this state to practice such individual's
102 profession;

103 (2) Any license issued under chapter 313; or

104 (3) Paid or unpaid employment with an entity licensed under chapter 313, any
105 state-operated lottery, or any emergency services provider, including any law enforcement
106 agency. Notwithstanding any provision of law to the contrary, an expunged offense shall not be
107 grounds for automatic disqualification of an applicant, but may be a factor for denying
108 employment, or a professional license, certificate, or permit.

109 9. If the court determines that such person has not met the criteria for any of the offenses
110 listed in the petition for expungement, the court shall enter an order dismissing the petition. Any
111 person whose petition for expungement has been dismissed by the court for failure to meet the
112 criteria set forth in subsection 5 of this section may [not] refile [another] **such** petition [until a
113 year has passed since the date of filing for the previous] **as soon as all criteria has been met for**
114 **each of the offenses listed in the** petition.

115 10. A person may be granted more than one expungement under this section provided
116 that no person shall be granted more than one order of expungement from the same court.
117 Nothing contained in this section shall prevent the court from maintaining records to ensure that
118 an individual has only one petition for expungement granted by such court under this section.

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