

FIRST REGULAR SESSION

SENATE BILL NO. 165

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 17, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0995S.01I

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to expungement of criminal records.

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

Section A. Chapter 610, RSMo, is amended by adding thereto one new section, to be known as section 610.108, to read as follows:

610.108. 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person who meets the criteria described in this section may file a verified petition for expungement in the civil division of the circuit court in any county where the person was found guilty for an order to expunge all recordations of such person's 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, the person was found guilty of all the offenses in the same circuit court, and all the offenses are eligible under subsection 2 of this section.

2. The following offenses are eligible:

(1) Any violation of prostitution under section 567.020;

(2) Any misdemeanor or felony violation of chapter 195 not involving possession or use of a weapon; except that, any felony committed by a commercial driver's license holder under chapter 195 shall not qualify for expungement under this section;

(3) Any misdemeanor or felony violation of criminal nonsupport under section 568.040; and

(4) All municipal ordinance violations and misdemeanor offenses,

21 with the following exceptions:

22 (a) Driving while intoxicated under section 577.010;

23 (b) Driving with excessive blood alcohol content under section
24 577.012;

25 (c) Any misdemeanor violation of chapter 566 or any other
26 misdemeanor sexual offense;

27 (d) Any violation of an order of protection issued under chapter
28 455;

29 (e) Any misdemeanor violation of section 568.050;

30 (f) Any misdemeanor violation of section 568.052;

31 (g) Any misdemeanor offense requiring registration under
32 section 589.400; and

33 (h) Any municipal traffic ordinance violation or misdemeanor
34 traffic offense committed by a holder of a commercial driver's license
35 regardless of what type of vehicle the offense is committed in.

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

43 4. The petition shall be dismissed if the following information is
44 not given:

45 (1) The petitioner's:

46 (a) Full name;

47 (b) Sex;

48 (c) Race;

49 (d) Date of birth;

50 (e) Driver's license number;

51 (f) Social Security number; and

52 (g) Address at the time of the arrest for each offense listed in the
53 petition;

54 (2) Each offense charged against the petitioner for which the
55 petitioner is requesting the expungement;

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

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

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

62 (6) The case number for each offense;

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

67 5. The court shall set a hearing on the matter no sooner than
68 thirty days from the filing of the petition and shall give reasonable
69 notice of the hearing to each entity named in the petition.

70 6. The court may enter an order of expungement only when the
71 following criteria are met for each of the offenses listed in the petition:

72 (1) At least five years have elapsed since the person making the
73 application has completed his or her:

74 (a) Sentence of imprisonment, if sentenced to jail or prison;

75 (b) Period of probation, if placed on probation; or

76 (c) Parole, if placed on parole; and

77 (2) The person has not been found guilty of a misdemeanor or
78 felony offense during the five-year period specified in subdivision (1)
79 of this subsection; and

80 (3) The person has not had any other petition for expungement
81 granted under this section.

82 7. If the court determines at the conclusion of the hearing that
83 such person meets all the criteria set forth in subsection 6 of this
84 section for each of the offenses listed in the petition, the court shall
85 enter an order of expungement. Upon granting the order of
86 expungement, the records and files maintained in any administrative
87 or court proceeding in an associate circuit or circuit court division of
88 the circuit court for any offense ordered expunged shall be confidential
89 and only available to:

90 (1) The parties;

91 (2) Any federal, state, or local law enforcement agency for
92 purposes of criminal investigations;

93 **(3) Any federal, state, or local prosecutor for purposes of**
94 **criminal prosecutions; or**

95 **(4) By order of the court for good cause shown.**

96 **Such records shall be admissible in a court of law for criminal**
97 **prosecution of cases.**

98 **8. A copy of the order shall be provided to each entity named in**
99 **the petition, and, upon receipt of the order, each entity, except any**
100 **circuit court, shall destroy any record in its possession relating to any**
101 **offense listed in the petition. If destruction of the record is not feasible**
102 **because of the permanent nature of the record books, such record**
103 **entries shall be blacked out. Entries of a record ordered expunged shall**
104 **be removed from all electronic files maintained with the state of**
105 **Missouri, except for the files of the circuit court. The central**
106 **repository shall request the Federal Bureau of Investigation to expunge**
107 **the records from its files.**

108 **9. If the court determines that such person has not met the**
109 **criteria for any of the offenses listed in the petition for expungement,**
110 **the court shall enter an order dismissing the petition. Any person**
111 **whose petition for expungement has been dismissed by the court for**
112 **failure to meet the criteria set forth in subsection 6 of this section may**
113 **refile such petition as soon as all the criteria have been met for each**
114 **of the offenses listed in the petition.**

115 **10. Except in accordance with subsection 7 of this section for**
116 **criminal investigations and prosecutions:**

117 **(1) The effect of the order shall be to restore the person to the**
118 **status he or she occupied prior to such arrests, pleas, trials, or**
119 **convictions; and**

120 **(2) No person as to whom an order has been entered shall be**
121 **held thereafter to be guilty of perjury or otherwise giving a false**
122 **statement by reason of his or her failure to recite or acknowledge such**
123 **arrests, pleas, trials, convictions, or expungement in response to any**
124 **inquiry made of him or her and no such inquiry shall be made for**
125 **information relating to the expungement.**

126 **11. The supreme court shall promulgate rules establishing**
127 **procedures for the handling of cases filed under the provisions of this**
128 **section. Such procedures shall be similar to the procedures established**

129 in chapter 482 for the handling of small claims.

130 12. Nothing contained in this section shall prevent the court
131 from maintaining such records as to ensure that an individual has only
132 one petition for expungement granted under this section.

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Unofficial

Bill

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