

FIRST REGULAR SESSION

SENATE BILL NO. 310

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time February 13, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1421S.03I

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, 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.