

# SENATE BILL NO. 687

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

3948S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 43.504, 43.507, and 610.140, RSMo, and to enact in lieu thereof three new sections relating to expungement of records.

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

Section A. Sections 43.504, 43.507, and 610.140, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 43.504, 43.507, and 610.140, to read as follows:

43.504. 1. Notwithstanding section 610.120, the sheriff of any county, the sheriff of the City of St. Louis, and the judges of the circuit courts of this state may make available, for review, information obtained from the central repository to private entities responsible for probation supervision pursuant to sections 559.600 to 559.615, **as well as to expungement clinics or legal aid organizations for the purposes of pursuing relief under section 610.140.** When the term of probation is completed or when the material is no longer needed for purposes related to the probation **or expungement,** it shall be returned to the court or destroyed. Criminal history information obtained from the central repository may be made available to private entities responsible for providing services associated with drug treatment courts under sections 478.001 to 478.008 **and to expungement clinics or legal aid organizations for the purposes of pursuing relief under section 610.140.** The

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 private entities shall not use or make this information  
19 available to any other person for any other purpose.

20 **2. For the purposes of this section, "expungement**  
21 **clinic" means a pro bono service provider established by the**  
22 **Missouri Bar, a local or specialty bar association as**  
23 **identified by the Missouri Bar, or a nonprofit organization**  
24 **located in Missouri providing legal services to indigent**  
25 **citizens of Missouri.**

43.507. 1. All criminal history information, in the  
2 possession or control of the central repository, except  
3 criminal intelligence and investigative information, may be  
4 made available to qualified persons and organizations for  
5 research, evaluative and statistical purposes under written  
6 agreements reasonably designed to ensure the security and  
7 confidentiality of the information and the protection of the  
8 privacy interests of the individuals who are subjects of the  
9 criminal history.

10 **2. Expungement clinics and legal aid organizations**  
11 **which seek to expunge the records of petitioners at no-**  
12 **charge, pursuant to the provisions of section 610.140, shall**  
13 **have access to all criminal history information in the**  
14 **possession or control of the central repository, except**  
15 **criminal intelligence and investigation, for each petitioner**  
16 **who has executed a written agreement with said clinic or**  
17 **organization. In these cases, pro bono clinics and legal**  
18 **aid organizations shall not be subject to the provisions of**  
19 **subsection 3 of this section.**

20 **3. Prior to such information being made available,**  
21 **information that uniquely identifies the individual shall be**  
22 **deleted. Organizations receiving such criminal history**  
23 **information shall not reestablish the identity of the**

24 individual and associate it with the criminal history  
25 information being provided.

26 4. For purposes of this section, "expungement clinic"  
27 means a pro bono service provider established by the  
28 Missouri Bar, a local or specialty bar association as  
29 identified by the Missouri Bar, or a nonprofit organization  
30 located in Missouri providing legal services to indigent  
31 citizens of Missouri.

610.140. 1. For the purposes of this section, the  
2 following terms mean:

3 (1) "Court", any Missouri municipal, associate  
4 circuit, or circuit court;

5 (2) "Offense", any offense, violation, or infraction  
6 of Missouri state, county, municipal, or administrative law;

7 (3) "Prosecutor" or "prosecuting attorney", the  
8 prosecuting attorney, circuit attorney, or municipal  
9 prosecuting attorney;

10 (4) "Same course of criminal conduct", offenses which:

11 (a) Arose under the same criminal statute;

12 (b) Involve conduct that is the substantial equivalent  
13 of any offense, violation, or infraction sought to be  
14 expunged; or

15 (c) Occur within a time period suggesting a common  
16 connection between the offenses, not to exceed one year.

17 2. Notwithstanding any other provision of law and  
18 subject to the provisions of this section, any person may  
19 apply to any court in which such person was charged or found  
20 guilty of any offenses[, violations, or infractions] for an  
21 order to expunge records of such arrest, plea, trial, or  
22 conviction.

23 (1) Subject to the limitations of subsection [12] 13  
24 of this section, a person may apply to have one or more

25 offenses[, violations, or infractions] expunged if such  
26 offense[, violation, or infraction] occurred within the  
27 state of Missouri and was prosecuted under the jurisdiction  
28 of a Missouri [municipal, associate circuit, or circuit]  
29 court, so long as such person lists all the offenses[,  
30 violations, and infractions] he or she is seeking to have  
31 expunged in the petition and so long as all such offenses[,  
32 violations, and infractions] are not excluded under  
33 subsection 2 of this section.

34 (2) If the offenses[, violations, or infractions] were  
35 charged as counts in the same indictment or information or  
36 were committed as part of the same course of criminal  
37 conduct, the person may include all the related offenses[,  
38 violations, and infractions] in the petition, regardless of  
39 the limits of subsection [12] 13 of this section, and the  
40 petition shall only count as a petition for expungement of  
41 the highest level violation or offense contained in the  
42 petition for the purpose of determining future eligibility  
43 for expungement.

44 [2.] 3. The following offenses[, violations, and  
45 infractions] shall not be eligible for expungement under  
46 this section:

- 47 (1) Any class A felony offense;
- 48 (2) Any dangerous felony as that term is defined in  
49 section 556.061;
- 50 (3) Any offense **at the time of conviction** that  
51 requires registration as a sex offender;
- 52 (4) Any felony offense where death is an element of  
53 the offense;
- 54 (5) Any felony offense of assault; misdemeanor or  
55 felony offense of domestic assault; or felony offense of  
56 kidnapping;

57 (6) Any offense listed, or previously listed, **or is a**  
58 **successor to an offense** in chapter 566 or section 105.454,  
59 105.478, 115.631, 130.028, 188.030, 188.080, 191.677,  
60 194.425, 217.360, 217.385, 334.245, 375.991, 389.653,  
61 455.085, 455.538, 557.035, 565.084, 565.085, 565.086,  
62 565.095, 565.120, 565.130, 565.156, 565.200, 565.214,  
63 566.093, 566.111, 566.115, **566.116**, 568.020, 568.030,  
64 568.032, 568.045, 568.060, 568.065, 568.080, 568.090,  
65 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,  
66 569.060, 569.065, 569.067, 569.072, 569.160, 570.025,  
67 570.090, 570.180, 570.223, 570.224, 570.310, 571.020,  
68 571.060, 571.063, 571.070, 571.072, 571.150, **573.200**,  
69 **573.205**, 574.070, 574.105, 574.115, 574.120, 574.130,  
70 **574.140**, 575.040, 575.095, 575.153, 575.155, 575.157,  
71 575.159, 575.195, 575.200, 575.210, 575.220, 575.230,  
72 575.240, 575.350, 575.353, 577.078, 577.703, 577.706,  
73 578.008, 578.305, 578.310, or 632.520;

74 (7) Any offense eligible for expungement under section  
75 **[577.054 or]** 610.130;

76 (8) Any intoxication-related traffic or boating  
77 offense as defined in section 577.001, or any offense of  
78 operating an aircraft with an excessive blood alcohol  
79 content or while in an intoxicated condition;

80 (9) Any ordinance violation that is the substantial  
81 equivalent of any offense that is not eligible for  
82 expungement under this section;

83 (10) Any violation of any state law or county or  
84 municipal ordinance regulating the operation of motor  
85 vehicles when committed by an individual who has been issued  
86 a commercial driver's license or is required to possess a  
87 commercial driver's license issued by this state or any  
88 other state; and

89           (11) Any **felony** offense of section 571.030, except any  
90 offense under subdivision (1) of subsection 1 of section  
91 571.030 where the person was convicted or found guilty prior  
92 to January 1, 2017, or any offense under subdivision (4) of  
93 subsection 1 of section 571.030.

94           [3.] 4. The petition shall name as defendants all law  
95 enforcement agencies, courts, prosecuting or circuit  
96 attorneys, [municipal prosecuting attorneys,] central state  
97 repositories of criminal records, or others who the  
98 petitioner has reason to believe may possess the records  
99 subject to expungement for each of the offenses[,  
100 violations, and infractions] listed in the petition. The  
101 court's order of expungement shall not affect any person or  
102 entity not named as a defendant in the action.

103           [4.] 5. The petition shall include the following  
104 information:

105           (1) The petitioner's:

106           (a) Full name;

107           (b) Sex;

108           (c) Race;

109           (d) Driver's license number, if applicable; and

110           (e) Current address;

111           (2) Each offense[, violation, or infraction] for which  
112 the petitioner is requesting expungement;

113           (3) The approximate date the petitioner was charged  
114 for each offense[, violation, or infraction]; and

115           (4) The name of the county where the petitioner was  
116 charged for each offense[, violation, or infraction] and if  
117 any of the offenses[, violations, or infractions] occurred  
118 in a municipality, the name of the municipality for each  
119 offense[, violation, or infraction]; and

120 (5) The case number and name of the court for each  
121 offense.

122 [5.] 6. The clerk of the court shall give notice of  
123 the filing of the petition to the office of the prosecuting  
124 attorney[, ] or circuit attorney[, or municipal prosecuting  
125 attorney] that prosecuted the offenses[, violations, or  
126 infractions] listed in the petition. If the prosecuting  
127 attorney, circuit attorney, or municipal prosecuting  
128 attorney objects to the petition for expungement, he or she  
129 shall do so in writing within thirty days after receipt of  
130 service. Unless otherwise agreed upon by the parties, the  
131 court shall hold a hearing within sixty days after any  
132 written objection is filed, giving reasonable notice of the  
133 hearing to the petitioner. If no objection has been filed  
134 within thirty days after receipt of service, the court may  
135 set a hearing on the matter and shall give reasonable notice  
136 of the hearing to each entity named in the petition. At any  
137 hearing, the court may accept evidence and hear testimony  
138 on, and may consider, the following criteria for each of the  
139 offenses[, violations, or infractions] listed in the  
140 petition for expungement:

141 (1) At the time the petition is filed, it has been at  
142 least three years if the offense is a felony, or at least  
143 one year if the offense is a misdemeanor, municipal offense,  
144 or infraction, from the date the petitioner completed any  
145 authorized disposition imposed under section 557.011 for  
146 each offense, violation, or infraction listed in the  
147 petition;

148 (2) At the time the petition is filed, the person has  
149 not been found guilty of any other misdemeanor or felony,  
150 not including violations of the traffic regulations provided  
151 under chapters 301, 302, 303, 304, and 307, during the time

152 period specified for the underlying offense[, violation, or  
153 infraction] in subdivision (1) of this subsection;

154 (3) The person has satisfied all obligations relating  
155 to any such disposition, including the payment of any fines  
156 or restitution;

157 (4) The person does not have charges pending;

158 (5) The petitioner's habits and conduct demonstrate  
159 that the petitioner is not a threat to the public safety of  
160 the state; and

161 (6) The expungement is consistent with the public  
162 welfare and the interests of justice warrant the expungement.

163 A pleading by the petitioner that such petitioner meets the  
164 requirements of subdivisions (5) and (6) of this subsection  
165 shall create a rebuttable presumption that the expungement  
166 is warranted so long as the criteria contained in  
167 subdivisions (1) to (4) of this subsection are otherwise  
168 satisfied. The burden shall shift to the prosecuting  
169 attorney[, ] **or** circuit attorney[, or municipal prosecuting  
170 attorney] to rebut the presumption. A victim of an  
171 offense[, violation, or infraction] listed in the petition  
172 shall have an opportunity to be heard at any hearing held  
173 under this section[, and the court may make a determination  
174 based solely on such victim's testimony]. **A court may find  
175 that the continuing impact of the offense upon the victim  
176 rebuts the presumption that expungement is warranted.**

177 [6.] 7. A petition to expunge records related to an  
178 arrest for an eligible offense[, violation, or infraction]  
179 may be made in accordance with the provisions of this  
180 section to a court of competent jurisdiction in the county  
181 where the petitioner was arrested no earlier than three  
182 years from the date of arrest; provided that, during such



183 time, the petitioner has not been charged and the petitioner  
184 has not been found guilty of any misdemeanor or felony  
185 offense.

186 [7.] 8. If the court determines that such person meets  
187 all the criteria set forth in subsection [5] 6 of this  
188 section for each of the offenses[, violations, or  
189 infractions] listed in the petition for expungement, the  
190 court shall enter an order of expungement. In all cases  
191 under this section, the court shall issue an order of  
192 expungement or dismissal within six months of the filing of  
193 the petition. A copy of the order of expungement shall be  
194 provided to the petitioner and each entity possessing  
195 records subject to the order, and, upon receipt of the  
196 order, each entity shall close any record in its possession  
197 relating to any offense[, violation, or infraction] listed  
198 in the petition, in the manner established by section  
199 610.120. The records and files maintained in any  
200 administrative or court proceeding in a municipal,  
201 associate, or circuit court for any offense[, infraction, or  
202 violation] ordered expunged under this section shall be  
203 confidential and only available to the parties or by order  
204 of the court for good cause shown. The central repository  
205 shall request the Federal Bureau of Investigation to expunge  
206 the records from its files.

207 [8.] 9. The order shall not limit any of the  
208 petitioner's rights that were restricted as a collateral  
209 consequence of such person's criminal record, and such  
210 rights shall be restored upon issuance of the order of  
211 expungement. For purposes of 18 U.S.C. Section  
212 921(a)(33)(B)(ii), an order or expungement granted pursuant  
213 to this section shall be considered a complete removal of  
214 all effects of the expunged conviction. Except as otherwise

215 provided under this section, the effect of such order shall  
216 be to restore such person to the status he or she occupied  
217 prior to such arrests, pleas, trials, or convictions as if  
218 such events had never taken place. No person as to whom  
219 such order has been entered shall be held thereafter under  
220 any provision of law to be guilty of perjury or otherwise  
221 giving a false statement by reason of his or her failure to  
222 recite or acknowledge such arrests, pleas, trials,  
223 convictions, or expungement in response to an inquiry made  
224 of him or her and no such inquiry shall be made for  
225 information relating to an expungement, except the  
226 petitioner shall disclose the expunged offense[, violation,  
227 or infraction] to any court when asked or upon being charged  
228 with any subsequent offense[, violation, or infraction].  
229 The expunged offense[, violation, or infraction] may be  
230 considered a prior offense in determining a sentence to be  
231 imposed for any subsequent offense that the person is found  
232 guilty of committing.

233 [9.] 10. Notwithstanding the provisions of subsection  
234 [8] 9 of this section to the contrary, a person granted an  
235 expungement shall disclose any expunged offense[, violation,  
236 or infraction] when the disclosure of such information is  
237 necessary to complete any application for:

- 238 (1) A license, certificate, or permit issued by this  
239 state to practice such individual's profession;
- 240 (2) Any license issued under chapter 313 or permit  
241 issued under chapter 571;
- 242 (3) Paid or unpaid employment with an entity licensed  
243 under chapter 313, any state-operated lottery, or any  
244 emergency services provider, including any law enforcement  
245 agency;

246 (4) Employment with any federally insured bank or  
247 savings institution or credit union or an affiliate of such  
248 institution or credit union for the purposes of compliance  
249 with 12 U.S.C. Section 1829 and 12 U.S.C. Section 1785;

250 (5) Employment with any entity engaged in the business  
251 of insurance or any insurer for the purpose of complying  
252 with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or  
253 other similar law which requires an employer engaged in the  
254 business of insurance to exclude applicants with certain  
255 criminal convictions from employment; or

256 (6) Employment with any employer that is required to  
257 exclude applicants with certain criminal convictions from  
258 employment due to federal or state law, including  
259 corresponding rules and regulations.

260 An employer shall notify an applicant of the requirements  
261 under subdivisions (4) to (6) of this subsection.

262 Notwithstanding any provision of law to the contrary, an  
263 expunged offense[, violation, or infraction] shall not be  
264 grounds for automatic disqualification of an applicant, but  
265 may be a factor for denying employment, or a professional  
266 license, certificate, or permit; except that, an offense[,  
267 violation, or infraction] expunged under the provisions of  
268 this section may be grounds for automatic disqualification  
269 if the application is for employment under subdivisions (4)  
270 to (6) of this subsection.

271 [10.] 11. A person who has been granted an expungement  
272 of records pertaining to a misdemeanor or felony offense, an  
273 ordinance violation, or an infraction may answer "no" to an  
274 employer's inquiry into whether the person has ever been  
275 **arrested, charged, or** convicted of a crime if, after the  
276 granting of the expungement, the person has no public record

277 of a misdemeanor or felony offense, an ordinance violation,  
278 or an infraction. The person, however, shall answer such an  
279 inquiry affirmatively and disclose his or her criminal  
280 convictions, including any offense [or violation] expunged  
281 under this section or similar law, if the employer is  
282 required to exclude applicants with certain criminal  
283 convictions from employment due to federal or state law,  
284 including corresponding rules and regulations.

285 [11.] 12. If the court determines that the petitioner  
286 has not met the criteria for any of the offenses[,  
287 violations, or infractions] listed in the petition for  
288 expungement or the petitioner has knowingly provided false  
289 information in the petition, the court shall enter an order  
290 dismissing the petition. Any person whose petition for  
291 expungement has been dismissed by the court for failure to  
292 meet the criteria set forth in subsection [5] 6 of this  
293 section may not refile another petition until a year has  
294 passed since the date of filing for the previous petition.

295 [12.] 13. A person may be granted more than one  
296 expungement under this section provided that during his or  
297 her lifetime, the total number of offenses[, violations, or  
298 infractions] for which orders of expungement are granted to  
299 the person shall not exceed the following limits:

300 (1) Not more than two misdemeanor offenses or  
301 ordinance violations that have an authorized term of  
302 imprisonment; and

303 (2) Not more than one felony offense.

304 A person may be granted expungement under this section for  
305 any number of infractions. Nothing in this section shall  
306 prevent the court from maintaining records to ensure that an  
307 individual has not exceeded the limitations of this

308 subsection. Nothing in this section shall be construed to  
309 limit or impair in any way the subsequent use of any record  
310 expunged under this section of any arrests or findings of  
311 guilt by a law enforcement agency, criminal justice agency,  
312 prosecuting attorney[, ] **or** circuit attorney[, or municipal  
313 prosecuting attorney,] including its use as a prior  
314 offense[, violation, or infraction].

315 [13.] 14. The court shall make available a form for  
316 pro se petitioners seeking expungement, which shall include  
317 the following statement: "I declare under penalty of  
318 perjury that the statements made herein are true and correct  
319 to the best of my knowledge, information, and belief."

320 [14.] 15. Nothing in this section shall be construed  
321 to limit or restrict the availability of expungement to any  
322 person under any other law.

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