

SECOND REGULAR SESSION

HOUSE BILL NO. 2380

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DAVIS.

4548H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 610, RSMo, by adding thereto seven new sections relating to expungement, with penalty provisions.

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

Section A. Chapter 610, RSMo, is amended by adding thereto seven new sections, to be known as sections 610.400, 610.403, 610.406, 610.409, 610.412, 610.415, and 610.418, to read as follows:

610.400. 1. Beginning August 28, 2024, and subject to any necessary appropriation, a misdemeanor conviction for an offense for which the maximum punishment is imprisonment for no more than six months shall be expunged under this section without the filing of a petition for expungement as required under section 610.140 if seven years have passed from the imposition of the sentence. Each court shall notify the arresting law enforcement agency of each conviction that is expunged under this subsection on or before the tenth day of each month for the preceding month. Each law enforcement agency is not required to retain and shall make nonpublic the notification that the conviction has been expunged and the record of the arrest, fingerprinting, conviction, and sentence of the person in the case to which the notification applies.

2. Beginning August 28, 2024, and subject to any necessary appropriation and subsections 5, 6, 7, and 10 of this section, a felony conviction that is recorded and maintained in the central repository as defined under section 43.500 shall be expunged under this section without the filing of a petition for expungement required under section 610.140 if the following apply:

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.

17 **(1) Ten years have passed from whichever of the following events occurs last:**

18 **(a) Imposition of the sentence for the conviction; or**

19 **(b) Completion of any term of imprisonment with the department of corrections**

20 **for the conviction; and**

21 **(2) The conviction or convictions are otherwise eligible for expungement under**
22 **section 610.140.**

23 **3. Beginning August 28, 2024, and subject to any necessary appropriation and**
24 **subsection 10 of this section, a conviction for a misdemeanor offense for which the**
25 **maximum punishment is imprisonment for no more than six months that is recorded**
26 **and maintained in the central repository shall be expunged under this section without**
27 **the filing of a petition of expungement required under section 610.140 if seven years**
28 **have passed from the imposition of the sentence.**

29 **4. Beginning August 28, 2024, and subject to any necessary appropriation and**
30 **subsections 5, 6, 7, and 10 of this section, a conviction for a misdemeanor offense for**
31 **which the maximum punishment is imprisonment for six months or more that is**
32 **recorded and maintained in the central repository shall be expunged under this section**
33 **without the filing of a petition for expungement required under section 610.140 if seven**
34 **years have passed from the imposition of the sentence.**

35 **5. Except as otherwise provided in this subsection, no more than two felony**
36 **convictions and four misdemeanor convictions total that are recorded and maintained in**
37 **the central repository may be expunged under this section during the lifetime of an**
38 **individual. The limit on the number of misdemeanor convictions that may be expunged**
39 **under this subsection shall not apply to the expunged convictions described under**
40 **subsection 1 or 3 of this section.**

41 **6. A conviction shall not be expunged under subsection 2 or 4 of this section**
42 **unless all of the following apply:**

43 **(1) The applicable time period required under subsection 2 or 4 of this section**
44 **has elapsed;**

45 **(2) There are no criminal charges pending against the individual; and**

46 **(3) The individual has not been convicted of any criminal offense that is**
47 **recorded and maintained in the central repository during the applicable time period**
48 **required under subsection 2 or 4 of this section.**

49 **7. Subsections 2 and 4 of this section shall not apply to an individual who has**
50 **more than one conviction for a dangerous felony as defined under section 556.061 or an**
51 **attempt to commit a dangerous felony that is recorded and maintained in the central**
52 **repository.**

53 **8. If the governor determines that the process for expunging a conviction**
54 **without an application, as provided under this section, shall not be implemented by the**
55 **date required under subsections 1 to 4 of this section because of technological**
56 **limitations, the governor may issue a directive delaying the implementation of this**
57 **section for no more than one hundred eighty days. The attorney general, the office of**
58 **state court administrator, or the superintendent of the Missouri state highway patrol**
59 **may recommend to the governor a delay of implementation under this subsection.**

60 **9. An individual whose conviction is expunged under this section implicitly**
61 **consents to the creation of the nonpublic record under section 610.412.**

62 **10. Subsections 2 and 4 of this section shall not apply to a conviction recorded**
63 **and maintained in the central repository for the commission of or attempted**
64 **commission of any of the following:**

65 **(1) A dangerous felony;**

66 **(2) A class A misdemeanor;**

67 **(3) Offenses involving dishonesty;**

68 **(4) Any other offense not otherwise listed under this subsection that is**
69 **punishable by ten or more years' imprisonment;**

70 **(5) A violation of the laws of this state that involves a minor, vulnerable adult,**
71 **injury or serious impairment, or death; or**

72 **(6) Any violation related to human trafficking.**

73 **11. The office of administration shall develop and maintain a computer-based**
74 **program for the expunging of convictions under this section. In fulfilling its duty under**
75 **this subsection, the office of administration may contract with a private technical**
76 **consultant as needed.**

77 **12. The expungement of a conviction without a petition under this section is**
78 **subject to reinstatement under section 610.403.**

79 **13. The Missouri state highway patrol shall create and maintain an**
80 **electronically accessible record of each conviction recorded and maintained in the**
81 **central depository that was expunged under this section, which shall be provided to or**
82 **accessible by each court in this state. An electronic record created as required under**
83 **this section shall be used only as authorized under section 610.412 and by a court for**
84 **purposes of updating locally maintained court records.**

85 **14. The implementation of this section is subject to appropriation. The Missouri**
86 **state highway patrol and the office of administration shall begin work to implement this**
87 **section immediately upon appropriation.**

610.403. 1. Upon the occurrence of one of the circumstances provided under subsection 2 or 3 of this section, a conviction that was expunged by operation of law under section 610.400 shall be reinstated by the court as provided in this section.

2. If it is determined that a conviction was improperly or erroneously expunged under section 610.400 because the conviction was not eligible to be expunged under section 610.400 or any other provision of sections 610.400 to 610.415, the court shall, on its own motion, reinstate the conviction.

3. Upon a motion by a person owed restitution or on its own motion, the court shall reinstate a conviction that was expunged under section 610.400 for which the individual whose conviction was expunged was ordered to pay restitution if the court determines that the individual has not made a good-faith effort to pay the ordered restitution.

610.406. 1. There is hereby created in the state treasury the "Expungement Fund", which shall consist of moneys appropriated by the general assembly to the fund or any gifts, bequests, or grants. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund, and, upon appropriation, moneys in the fund shall be used as provided under subsection 4 of this section.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The Missouri state highway patrol, office of administration, and office of state courts administrator shall expend moneys from the fund, upon appropriation, only for one or more of the following purposes:

- (1) Implementation costs incurred under sections 610.400 to 610.415;
- (2) System upgrades necessitated under sections 610.400 to 610.415; or
- (3) Staffing needs necessitated under sections 610.400 to 610.415.

610.409. 1. Upon the entry of an order under section 610.140, or upon the automatic expungement of a conviction under section 610.400, the petitioner, for purposes of the law, is considered not to have been previously convicted, except as provided under this section and section 610.412.

2. The petitioner shall not be entitled to the remission of any fine, costs, or other moneys paid as a consequence of a conviction that is expunged.

7 **3. Sections 610.400 to 610.415 shall not affect the right of the petitioner to rely**
8 **upon the conviction to bar subsequent proceedings for the same offense.**

9 **4. Sections 610.400 to 610.415 shall not affect the right of a victim of an offense to**
10 **bring or defend a civil action for damages.**

11 **5. Sections 610.400 to 610.415 shall not create a right to commence an action for**
12 **damages for incarceration under the sentence that the petitioner served before the**
13 **conviction is expunged under sections 610.400 to 610.415.**

14 **6. Sections 610.400 to 610.415 shall not relieve any obligation to pay restitution**
15 **owed to the victim of an offense nor shall such sections affect the jurisdiction of the**
16 **convicting court or the authority of any court order with regard to enforcing an order**
17 **for restitution.**

18 **7. A conviction, including any records relating to the conviction and any records**
19 **concerning a collateral action, that has been expunged under sections 610.400 to 610.415**
20 **shall not be used as evidence in an action for negligent hiring, admission, or licensure**
21 **against any person.**

22 **8. A conviction that is expunged under section 610.140 or 610.400 may be**
23 **considered a prior conviction by a court, law enforcement agency, prosecuting attorney,**
24 **or the attorney general, as applicable, for purposes of charging a crime as a second or**
25 **subsequent offense or for sentencing under section 550.016.**

26 **9. As used in this section, "petitioner" includes an individual who has petitioned**
27 **the court to have his or her conviction or convictions expunged and an individual whose**
28 **conviction or convictions have been expunged without a petition under section 610.400.**

610.412. 1. Upon the entry of an order under section 610.140, the court shall
2 **send a copy of the order to the arresting law enforcement agency and the Missouri state**
3 **highway patrol.**

4 **2. The Missouri state highway patrol shall retain a nonpublic record of the order**
5 **expunging a conviction or other notification regarding a conviction that was**
6 **automatically expunged under section 610.400 and of the record of the arrest,**
7 **fingerprints, conviction, and sentence of the person in the case to which the order or**
8 **other notification applies. Except as provided in subsection 3 of this section, the**
9 **nonpublic record shall be made available only to a court of competent jurisdiction, an**
10 **independent department of the judicial branch of state government, the department of**
11 **corrections, a law enforcement agency, a prosecuting attorney, the attorney general, or**
12 **the governor upon request and only for the following purposes:**

13 **(1) To show that a person who has filed a petition to expunge a conviction has**
14 **previously had a conviction expunged under section 610.400;**

15 (2) The court's consideration in determining the sentence to be imposed upon
16 conviction for a subsequent offense that is punishable as a felony or by imprisonment
17 for more than one year;

18 (3) Consideration by the governor if a person whose conviction has been
19 expunged applies for a pardon for another offense;

20 (4) Consideration by the department of corrections or a law enforcement agency
21 if a person whose conviction has been expunged applies for employment with the
22 department of corrections or law enforcement agency;

23 (5) Consideration by a court, law enforcement agency, prosecuting attorney, or
24 the attorney general in determining whether an individual required to register under
25 sections 589.400 to 589.425 has committed an offense that requires registration under
26 sections 589.400 to 589.425, or for use in a prosecution for committing an offense
27 requiring registration under sections 589.400 to 589.425;

28 (6) Consideration by a court, law enforcement agency, prosecuting attorney, or
29 the attorney general for use in making determinations regarding charging, plea offers,
30 and sentencing, as applicable.

31 3. A copy of the nonpublic record created under subsection 2 of this section shall
32 be provided to the person whose conviction is expunged under sections 610.400 to
33 610.415 upon payment of a fee determined and charged by the Missouri state highway
34 patrol.

35 4. The nonpublic record maintained under subsection 2 of this section is exempt
36 from disclosure under this chapter.

37 5. Except as provided under subsection 2 of this section, a person, other than the
38 person whose conviction was expunged or a victim, who knows or should have known
39 that a conviction was expunged and who divulges, uses, or publishes information
40 concerning a conviction expunged is guilty of a class D misdemeanor.

41 6. An entity shall not be liable for damages or subject to criminal penalties for
42 reporting a public record of conviction that has been expunged by court order or
43 operation of law if that record was available as a public record on the date of the report.

44 7. As used in this section, "victim" means any individual who suffers direct or
45 threatened physical, financial, or emotional harm as the result of an offense that was
46 committed by the applicant.

 610.415. Except as provided under section 610.140 or 610.400, a person shall
2 have only one conviction expunged.

 610.418. Notwithstanding any provision of law, arrests that occur because of an
2 error from a court or a clerk shall be expunged immediately upon petitioning the court.