

# SENATE BILL NO. 1025

## 101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

4767S.01H

ADRIANE D. CROUSE, Secretary

### AN ACT

To repeal sections 558.019, 575.150, and 610.140, RSMo, and to enact in lieu thereof four new sections relating to offenses involving fleeing from arrest, with penalty provisions.

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

Section A. Sections 558.019, 575.150, and 610.140, RSMo,  
2 are repealed and four new sections enacted in lieu thereof, to  
3 be known as sections 558.019, 575.150, 575.151, and 610.140, to  
4 read as follows:

558.019. 1. This section shall not be construed to  
2 affect the powers of the governor under Article IV, Section  
3 7, of the Missouri Constitution. This statute shall not  
4 affect those provisions of section 565.020, section 566.125,  
5 or section 571.015, which set minimum terms of sentences, or  
6 the provisions of section 559.115, relating to probation.

7 2. The provisions of subsections 2 to 5 of this  
8 section shall only be applicable to the offenses contained  
9 in sections 565.021, 565.023, 565.024, 565.027, 565.050,  
10 565.052, 565.054, 565.072, 565.073, 565.074, 565.090,  
11 565.110, 565.115, 565.120, 565.153, 565.156, 565.225,  
12 565.300, 566.030, 566.031, 566.032, 566.034, 566.060,  
13 566.061, 566.062, 566.064, 566.067, 566.068, 566.069,  
14 566.071, 566.083, 566.086, 566.100, 566.101, 566.103,  
15 566.111, 566.115, 566.145, 566.151, 566.153, 566.203,  
16 566.206, 566.209, 566.210, 566.211, 566.215, 568.030,  
17 568.045, 568.060, 568.065, 568.175, 569.040, 569.160,

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

18 570.023, 570.025, 570.030 when punished as a class A, B, or  
19 C felony, 570.145 when punished as a class A or B felony,  
20 570.223 when punished as a class B or C felony, 571.020,  
21 571.030, 571.070, 573.023, 573.025, 573.035, 573.037,  
22 573.200, 573.205, 574.070, 574.080, 574.115, 575.030,  
23 575.150, **575.151**, 575.153, 575.155, 575.157, [575.200 when  
24 punished as a class A felony,] 575.210, 575.230 when  
25 punished as a class B felony, 575.240 when punished as a  
26 class B felony, 576.070, 576.080, 577.010, 577.013, 577.078,  
27 577.703, 577.706, 579.065, and 579.068 when punished as a  
28 class A or B felony. For the purposes of this section,  
29 "prison commitment" means and is the receipt by the  
30 department of corrections of an offender after sentencing.  
31 For purposes of this section, prior prison commitments to  
32 the department of corrections shall not include an  
33 offender's first incarceration prior to release on probation  
34 under section 217.362 or 559.115. Other provisions of the  
35 law to the contrary notwithstanding, any offender who has  
36 been found guilty of a felony other than a dangerous felony  
37 as defined in section 556.061 and is committed to the  
38 department of corrections shall be required to serve the  
39 following minimum prison terms:

40 (1) If the offender has one previous prison commitment  
41 to the department of corrections for a felony offense, the  
42 minimum prison term which the offender must serve shall be  
43 forty percent of his or her sentence or until the offender  
44 attains seventy years of age, and has served at least thirty  
45 percent of the sentence imposed, whichever occurs first;

46 (2) If the offender has two previous prison  
47 commitments to the department of corrections for felonies  
48 unrelated to the present offense, the minimum prison term  
49 which the offender must serve shall be fifty percent of his

50 or her sentence or until the offender attains seventy years  
51 of age, and has served at least forty percent of the  
52 sentence imposed, whichever occurs first;

53 (3) If the offender has three or more previous prison  
54 commitments to the department of corrections for felonies  
55 unrelated to the present offense, the minimum prison term  
56 which the offender must serve shall be eighty percent of his  
57 or her sentence or until the offender attains seventy years  
58 of age, and has served at least forty percent of the  
59 sentence imposed, whichever occurs first.

60 3. Other provisions of the law to the contrary  
61 notwithstanding, any offender who has been found guilty of a  
62 dangerous felony as defined in section 556.061 and is  
63 committed to the department of corrections shall be required  
64 to serve a minimum prison term of eighty-five percent of the  
65 sentence imposed by the court or until the offender attains  
66 seventy years of age, and has served at least forty percent  
67 of the sentence imposed, whichever occurs first.

68 4. For the purpose of determining the minimum prison  
69 term to be served, the following calculations shall apply:

70 (1) A sentence of life shall be calculated to be  
71 thirty years;

72 (2) Any sentence either alone or in the aggregate with  
73 other consecutive sentences for offenses committed at or  
74 near the same time which is over seventy-five years shall be  
75 calculated to be seventy-five years.

76 5. For purposes of this section, the term "minimum  
77 prison term" shall mean time required to be served by the  
78 offender before he or she is eligible for parole,  
79 conditional release or other early release by the department  
80 of corrections.

81           6. An offender who was convicted of, or pled guilty  
82 to, a felony offense other than those offenses listed in  
83 subsection 2 of this section prior to August 28, 2019, shall  
84 no longer be subject to the minimum prison term provisions  
85 under subsection 2 of this section, and shall be eligible  
86 for parole, conditional release, or other early release by  
87 the department of corrections according to the rules and  
88 regulations of the department.

89           7. (1) A sentencing advisory commission is hereby  
90 created to consist of eleven members. One member shall be  
91 appointed by the speaker of the house. One member shall be  
92 appointed by the president pro tem of the senate. One  
93 member shall be the director of the department of  
94 corrections. Six members shall be appointed by and serve at  
95 the pleasure of the governor from among the following: the  
96 public defender commission; private citizens; a private  
97 member of the Missouri Bar; the board of probation and  
98 parole; and a prosecutor. Two members shall be appointed by  
99 the supreme court, one from a metropolitan area and one from  
100 a rural area. All members shall be appointed to a four-year  
101 term. All members of the sentencing commission appointed  
102 prior to August 28, 1994, shall continue to serve on the  
103 sentencing advisory commission at the pleasure of the  
104 governor.

105           (2) The commission shall study sentencing practices in  
106 the circuit courts throughout the state for the purpose of  
107 determining whether and to what extent disparities exist  
108 among the various circuit courts with respect to the length  
109 of sentences imposed and the use of probation for offenders  
110 convicted of the same or similar offenses and with similar  
111 criminal histories. The commission shall also study and  
112 examine whether and to what extent sentencing disparity

113 among economic and social classes exists in relation to the  
114 sentence of death and if so, the reasons therefor, if  
115 sentences are comparable to other states, if the length of  
116 the sentence is appropriate, and the rate of rehabilitation  
117 based on sentence. It shall compile statistics, examine  
118 cases, draw conclusions, and perform other duties relevant  
119 to the research and investigation of disparities in death  
120 penalty sentencing among economic and social classes.

121 (3) The commission shall study alternative sentences,  
122 prison work programs, work release, home-based  
123 incarceration, probation and parole options, and any other  
124 programs and report the feasibility of these options in  
125 Missouri.

126 (4) The governor shall select a chairperson who shall  
127 call meetings of the commission as required or permitted  
128 pursuant to the purpose of the sentencing commission.

129 (5) The members of the commission shall not receive  
130 compensation for their duties on the commission, but shall  
131 be reimbursed for actual and necessary expenses incurred in  
132 the performance of these duties and for which they are not  
133 reimbursed by reason of their other paid positions.

134 (6) The circuit and associate circuit courts of this  
135 state, the office of the state courts administrator, the  
136 department of public safety, and the department of  
137 corrections shall cooperate with the commission by providing  
138 information or access to information needed by the  
139 commission. The office of the state courts administrator  
140 will provide needed staffing resources.

141 8. Courts shall retain discretion to lower or exceed  
142 the sentence recommended by the commission as otherwise  
143 allowable by law, and to order restorative justice methods,  
144 when applicable.

145           9. If the imposition or execution of a sentence is  
146 suspended, the court may order any or all of the following  
147 restorative justice methods, or any other method that the  
148 court finds just or appropriate:

149           (1) Restitution to any victim or a statutorily created  
150 fund for costs incurred as a result of the offender's  
151 actions;

152           (2) Offender treatment programs;

153           (3) Mandatory community service;

154           (4) Work release programs in local facilities; and

155           (5) Community-based residential and nonresidential  
156 programs.

157           10. Pursuant to subdivision (1) of subsection 9 of  
158 this section, the court may order the assessment and payment  
159 of a designated amount of restitution to a county law  
160 enforcement restitution fund established by the county  
161 commission pursuant to section 50.565. Such contribution  
162 shall not exceed three hundred dollars for any charged  
163 offense. Any restitution moneys deposited into the county  
164 law enforcement restitution fund pursuant to this section  
165 shall only be expended pursuant to the provisions of section  
166 50.565.

167           11. A judge may order payment to a restitution fund  
168 only if such fund had been created by ordinance or  
169 resolution of a county of the state of Missouri prior to  
170 sentencing. A judge shall not have any direct supervisory  
171 authority or administrative control over any fund to which  
172 the judge is ordering a person to make payment.

173           12. A person who fails to make a payment to a county  
174 law enforcement restitution fund may not have his or her  
175 probation revoked solely for failing to make such payment  
176 unless the judge, after evidentiary hearing, makes a finding

177 supported by a preponderance of the evidence that the person  
178 either willfully refused to make the payment or that the  
179 person willfully, intentionally, and purposefully failed to  
180 make sufficient bona fide efforts to acquire the resources  
181 to pay.

182 13. Nothing in this section shall be construed to  
183 allow the sentencing advisory commission to issue  
184 recommended sentences in specific cases pending in the  
185 courts of this state.

575.150. 1. A person commits the offense of resisting  
2 **[or]**, interfering with, **escaping, or attempting to escape**  
3 **from** arrest, detention, **[or]** stop, **or custody** if he or she  
4 knows or reasonably should know that a law enforcement  
5 officer is making an arrest or attempting to lawfully detain  
6 or stop an individual or vehicle, and for the purpose of  
7 preventing the officer from effecting the arrest, stop or  
8 detention **or maintaining custody after such stop, detention,**  
9 **or arrest**, he or she:

10 (1) Resists the arrest, stop or detention of such  
11 person by using or threatening the use of violence or  
12 physical force or by fleeing from such officer; **[or]**

13 (2) Interferes with the arrest, stop or detention of  
14 another person by using or threatening the use of violence,  
15 physical force or physical interference; **or**

16 (3) **While being held in custody after a stop,**  
17 **detention, or arrest has been made, escapes or attempts to**  
18 **escape from such custody.**

19 2. This section applies to:

20 (1) Arrests, stops, or detentions, with or without  
21 warrants;

22 (2) Arrests, stops, **[or]** detentions, **or custody** for  
23 any offense, infraction, or ordinance violation; and

24 (3) Arrests for warrants issued by a court or a  
25 probation and parole officer.

26 3. A person is presumed to be fleeing a vehicle stop  
27 if he or she continues to operate a motor vehicle after he  
28 or she has seen or should have seen clearly visible  
29 emergency lights or has heard or should have heard an  
30 audible signal emanating from the law enforcement vehicle  
31 pursuing him or her. **Nothing in this section shall be**  
32 **construed to require the state to prove in a prosecution**  
33 **against a defendant that the defendant knew why he or she**  
34 **was being stopped, detained, or arrested.**

35 4. It is no defense to a prosecution pursuant to  
36 subsection 1 of this section that the law enforcement  
37 officer was acting unlawfully in making the arrest.  
38 However, nothing in this section shall be construed to bar  
39 civil suits for unlawful arrest.

40 5. The offense of resisting [or], interfering with  
41 [an], **or escaping or attempting to escape from a stop,**  
42 **detention, or arrest or from custody after such stop,**  
43 **detention, or arrest** is a class [E felony for an arrest for  
44 a:

45 (1) Felony;

46 (2) Warrant issued for failure to appear on a felony  
47 case; or

48 (3) Warrant issued for a probation violation on a  
49 felony case.

50 The offense of resisting an arrest, detention or stop  
51 in violation of subdivision (1) or (2) of subsection 1 of  
52 this section is a class] A misdemeanor, unless [the person  
53 fleeing creates a substantial risk of serious physical  
54 injury or death to any person, in which case it is a class E  
55 felony]:



56 (1) The stop, detention, arrest, or custody was for a  
57 felony offense;

58 (2) The stop, detention, arrest, or custody was for a  
59 warrant issued for failure to appear on a felony case;

60 (3) The stop, detention, arrest, or custody was for a  
61 warrant issued for a probation violation on a felony case;

62 (4) While resisting, interfering with, or escaping or  
63 attempting to escape from a stop, detention, or arrest or  
64 from custody, the person flees and during such flight  
65 creates a substantial risk of serious physical injury or  
66 death to any person; or

67 (5) The escape or attempt to escape while in custody  
68 or under arrest was for a felony;

69 in which case it is a class E felony; except that, if such  
70 escape or attempted escape is committed by means of a deadly  
71 weapon or dangerous instrument or by holding any person  
72 hostage it is a class A felony.

575.151. 1. A person commits the offense of resisting  
2 arrest by fleeing in or on a motor vehicle if he or she  
3 resists an arrest, a stop, or a detention by fleeing in or  
4 on a motor vehicle from a law enforcement officer and,  
5 during the course of fleeing, drives at a speed or in a  
6 manner that demonstrates a disregard for the safety of any  
7 person or property, including that of the pursuing officer  
8 or other occupants of the fleeing vehicle.

9 2. A person commits the offense of aggravated  
10 resisting arrest by fleeing in or on a motor vehicle if he  
11 or she resists an arrest, a stop, or a detention by fleeing  
12 in or on a motor vehicle from a law enforcement officer and,  
13 during the course of fleeing, drives at a speed or in a  
14 manner that demonstrates a disregard for the safety of any

15 person or property, including that of the pursuing officer  
16 or other occupants of the fleeing vehicle, and that results  
17 in serious bodily injury or death to another person,  
18 including any officer.

19 3. Nothing in this section shall be construed to  
20 require the state to prove in a prosecution against a  
21 defendant that the defendant knew why he or she was being  
22 stopped, detained, or arrested.

23 4. The offense of resisting arrest by fleeing in or on  
24 a motor vehicle is a class E felony, unless the person has  
25 been previously convicted under subsection 1 of this  
26 section, in which case is a class D felony. The offense of  
27 aggravated resisting arrest by fleeing in or on a motor  
28 vehicle it is a class D felony, unless the person has been  
29 previously convicted under subsection 2 of this section, in  
30 which case it is a class C felony.

610.140. 1. Notwithstanding any other provision of  
2 law and subject to the provisions of this section, any  
3 person may apply to any court in which such person was  
4 charged or found guilty of any offenses, violations, or  
5 infractions for an order to expunge records of such arrest,  
6 plea, trial, or conviction. Subject to the limitations of  
7 subsection 12 of this section, a person may apply to have  
8 one or more offenses, violations, or infractions expunged if  
9 such offense, violation, or infraction occurred within the  
10 state of Missouri and was prosecuted under the jurisdiction  
11 of a Missouri municipal, associate circuit, or circuit  
12 court, so long as such person lists all the offenses,  
13 violations, and infractions he or she is seeking to have  
14 expunged in the petition and so long as all such offenses,  
15 violations, and infractions are not excluded under  
16 subsection 2 of this section. If the offenses, violations,

17 or infractions were charged as counts in the same indictment  
18 or information or were committed as part of the same course  
19 of criminal conduct, the person may include all the related  
20 offenses, violations, and infractions in the petition,  
21 regardless of the limits of subsection 12 of this section,  
22 and the petition shall only count as a petition for  
23 expungement of the highest level violation or offense  
24 contained in the petition for the purpose of determining  
25 future eligibility for expungement.

26 2. The following offenses, violations, and infractions  
27 shall not be eligible for expungement under this section:

28 (1) Any class A felony offense;

29 (2) Any dangerous felony as that term is defined in  
30 section 556.061;

31 (3) Any offense that requires registration as a sex  
32 offender;

33 (4) Any felony offense where death is an element of  
34 the offense;

35 (5) Any felony offense of assault; misdemeanor or  
36 felony offense of domestic assault; or felony offense of  
37 kidnapping;

38 (6) Any offense listed, or previously listed, in  
39 chapter 566 or section 105.454, 105.478, 115.631, 130.028,  
40 188.030, 188.080, 191.677, 194.425, 217.360, 217.385,  
41 334.245, 375.991, 389.653, 455.085, 455.538, 557.035,  
42 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,  
43 565.156, 565.200, 565.214, 566.093, 566.111, 566.115,  
44 568.020, 568.030, 568.032, 568.045, 568.060, 568.065,  
45 568.080, 568.090, 568.175, 569.030, 569.035, 569.040,  
46 569.050, 569.055, 569.060, 569.065, 569.067, 569.072,  
47 569.160, 570.025, 570.090, 570.180, 570.223, 570.224,  
48 570.310, 571.020, 571.060, 571.063, 571.070, 571.072,

49 571.150, 574.070, 574.105, 574.115, 574.120, 574.130,  
50 575.040, 575.095, **575.150**, **575.151**, 575.153, 575.155,  
51 575.157, 575.159, 575.195, [575.200,] 575.210, 575.220,  
52 575.230, 575.240, 575.350, 575.353, 577.078, 577.703,  
53 577.706, 578.008, 578.305, 578.310, or 632.520;

54 (7) Any offense eligible for expungement under section  
55 577.054 or 610.130;

56 (8) Any intoxication-related traffic or boating  
57 offense as defined in section 577.001, or any offense of  
58 operating an aircraft with an excessive blood alcohol  
59 content or while in an intoxicated condition;

60 (9) Any ordinance violation that is the substantial  
61 equivalent of any offense that is not eligible for  
62 expungement under this section;

63 (10) Any violation of any state law or county or  
64 municipal ordinance regulating the operation of motor  
65 vehicles when committed by an individual who has been issued  
66 a commercial driver's license or is required to possess a  
67 commercial driver's license issued by this state or any  
68 other state; and

69 (11) Any offense of section 571.030, except any  
70 offense under subdivision (1) of subsection 1 of section  
71 571.030 where the person was convicted or found guilty prior  
72 to January 1, 2017, or any offense under subdivision (4) of  
73 subsection 1 of section 571.030.

74 3. The petition shall name as defendants all law  
75 enforcement agencies, courts, prosecuting or circuit  
76 attorneys, municipal prosecuting attorneys, central state  
77 repositories of criminal records, or others who the  
78 petitioner has reason to believe may possess the records  
79 subject to expungement for each of the offenses, violations,  
80 and infractions listed in the petition. The court's order

81 of expungement shall not affect any person or entity not  
82 named as a defendant in the action.

83 4. The petition shall include the following  
84 information:

85 (1) The petitioner's:

86 (a) Full name;

87 (b) Sex;

88 (c) Race;

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

90 (e) Current address;

91 (2) Each offense, violation, or infraction for which  
92 the petitioner is requesting expungement;

93 (3) The approximate date the petitioner was charged  
94 for each offense, violation, or infraction; and

95 (4) The name of the county where the petitioner was  
96 charged for each offense, violation, or infraction and if  
97 any of the offenses, violations, or infractions occurred in  
98 a municipality, the name of the municipality for each  
99 offense, violation, or infraction; and

100 (5) The case number and name of the court for each  
101 offense.

102 5. The clerk of the court shall give notice of the  
103 filing of the petition to the office of the prosecuting  
104 attorney, circuit attorney, or municipal prosecuting  
105 attorney that prosecuted the offenses, violations, or  
106 infractions listed in the petition. If the prosecuting  
107 attorney, circuit attorney, or municipal prosecuting  
108 attorney objects to the petition for expungement, he or she  
109 shall do so in writing within thirty days after receipt of  
110 service. Unless otherwise agreed upon by the parties, the  
111 court shall hold a hearing within sixty days after any  
112 written objection is filed, giving reasonable notice of the

113 hearing to the petitioner. If no objection has been filed  
114 within thirty days after receipt of service, the court may  
115 set a hearing on the matter and shall give reasonable notice  
116 of the hearing to each entity named in the petition. At any  
117 hearing, the court may accept evidence and hear testimony  
118 on, and may consider, the following criteria for each of the  
119 offenses, violations, or infractions listed in the petition  
120 for expungement:

121 (1) At the time the petition is filed, it has been at  
122 least three years if the offense is a felony, or at least  
123 one year if the offense is a misdemeanor, municipal offense,  
124 or infraction, from the date the petitioner completed any  
125 authorized disposition imposed under section 557.011 for  
126 each offense, violation, or infraction listed in the  
127 petition;

128 (2) At the time the petition is filed, the person has  
129 not been found guilty of any other misdemeanor or felony,  
130 not including violations of the traffic regulations provided  
131 under chapters 301, 302, 303, 304, and 307, during the time  
132 period specified for the underlying offense, violation, or  
133 infraction in subdivision (1) of this subsection;

134 (3) The person has satisfied all obligations relating  
135 to any such disposition, including the payment of any fines  
136 or restitution;

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

138 (5) The petitioner's habits and conduct demonstrate  
139 that the petitioner is not a threat to the public safety of  
140 the state; and

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

143 A pleading by the petitioner that such petitioner meets  
144 the requirements of subdivisions (5) and (6) of this

145 subsection shall create a rebuttable presumption that the  
146 expungement is warranted so long as the criteria contained  
147 in subdivisions (1) to (4) of this subsection are otherwise  
148 satisfied. The burden shall shift to the prosecuting  
149 attorney, circuit attorney, or municipal prosecuting  
150 attorney to rebut the presumption. A victim of an offense,  
151 violation, or infraction listed in the petition shall have  
152 an opportunity to be heard at any hearing held under this  
153 section, and the court may make a determination based solely  
154 on such victim's testimony.

155         6. A petition to expunge records related to an arrest  
156 for an eligible offense, violation, or infraction may be  
157 made in accordance with the provisions of this section to a  
158 court of competent jurisdiction in the county where the  
159 petitioner was arrested no earlier than three years from the  
160 date of arrest; provided that, during such time, the  
161 petitioner has not been charged and the petitioner has not  
162 been found guilty of any misdemeanor or felony offense.

163         7. If the court determines that such person meets all  
164 the criteria set forth in subsection 5 of this section for  
165 each of the offenses, violations, or infractions listed in  
166 the petition for expungement, the court shall enter an order  
167 of expungement. In all cases under this section, the court  
168 shall issue an order of expungement or dismissal within six  
169 months of the filing of the petition. A copy of the order  
170 of expungement shall be provided to the petitioner and each  
171 entity possessing records subject to the order, and, upon  
172 receipt of the order, each entity shall close any record in  
173 its possession relating to any offense, violation, or  
174 infraction listed in the petition, in the manner established  
175 by section 610.120. The records and files maintained in any  
176 administrative or court proceeding in a municipal,

177 associate, or circuit court for any offense, infraction, or  
178 violation ordered expunged under this section shall be  
179 confidential and only available to the parties or by order  
180 of the court for good cause shown. The central repository  
181 shall request the Federal Bureau of Investigation to expunge  
182 the records from its files.

183 8. The order shall not limit any of the petitioner's  
184 rights that were restricted as a collateral consequence of  
185 such person's criminal record, and such rights shall be  
186 restored upon issuance of the order of expungement. For  
187 purposes of 18 U.S.C. Section 921(a)(33)(B)(ii), an order or  
188 expungement granted pursuant to this section shall be  
189 considered a complete removal of all effects of the expunged  
190 conviction. Except as otherwise provided under this  
191 section, the effect of such order shall be to restore such  
192 person to the status he or she occupied prior to such  
193 arrests, pleas, trials, or convictions as if such events had  
194 never taken place. No person as to whom such order has been  
195 entered shall be held thereafter under any provision of law  
196 to be guilty of perjury or otherwise giving a false  
197 statement by reason of his or her failure to recite or  
198 acknowledge such arrests, pleas, trials, convictions, or  
199 expungement in response to an inquiry made of him or her and  
200 no such inquiry shall be made for information relating to an  
201 expungement, except the petitioner shall disclose the  
202 expunged offense, violation, or infraction to any court when  
203 asked or upon being charged with any subsequent offense,  
204 violation, or infraction. The expunged offense, violation,  
205 or infraction may be considered a prior offense in  
206 determining a sentence to be imposed for any subsequent  
207 offense that the person is found guilty of committing.



208           9. Notwithstanding the provisions of subsection 8 of  
209 this section to the contrary, a person granted an  
210 expungement shall disclose any expunged offense, violation,  
211 or infraction when the disclosure of such information is  
212 necessary to complete any application for:

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

215           (2) Any license issued under chapter 313 or permit  
216 issued under chapter 571;

217           (3) Paid or unpaid employment with an entity licensed  
218 under chapter 313, any state-operated lottery, or any  
219 emergency services provider, including any law enforcement  
220 agency;

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

225           (5) Employment with any entity engaged in the business  
226 of insurance or any insurer for the purpose of complying  
227 with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or  
228 other similar law which requires an employer engaged in the  
229 business of insurance to exclude applicants with certain  
230 criminal convictions from employment; or

231           (6) Employment with any employer that is required to  
232 exclude applicants with certain criminal convictions from  
233 employment due to federal or state law, including  
234 corresponding rules and regulations.

235           An employer shall notify an applicant of the  
236 requirements under subdivisions (4) to (6) of this  
237 subsection. Notwithstanding any provision of law to the  
238 contrary, an expunged offense, violation, or infraction  
239 shall not be grounds for automatic disqualification of an

240 applicant, but may be a factor for denying employment, or a  
241 professional license, certificate, or permit; except that,  
242 an offense, violation, or infraction expunged under the  
243 provisions of this section may be grounds for automatic  
244 disqualification if the application is for employment under  
245 subdivisions (4) to (6) of this subsection.

246 10. A person who has been granted an expungement of  
247 records pertaining to a misdemeanor or felony offense, an  
248 ordinance violation, or an infraction may answer "no" to an  
249 employer's inquiry into whether the person has ever been  
250 convicted of a crime if, after the granting of the  
251 expungement, the person has no public record of a  
252 misdemeanor or felony offense, an ordinance violation, or an  
253 infraction. The person, however, shall answer such an  
254 inquiry affirmatively and disclose his or her criminal  
255 convictions, including any offense or violation expunged  
256 under this section or similar law, if the employer is  
257 required to exclude applicants with certain criminal  
258 convictions from employment due to federal or state law,  
259 including corresponding rules and regulations.

260 11. If the court determines that the petitioner has  
261 not met the criteria for any of the offenses, violations, or  
262 infractions listed in the petition for expungement or the  
263 petitioner has knowingly provided false information in the  
264 petition, the court shall enter an order dismissing the  
265 petition. Any person whose petition for expungement has  
266 been dismissed by the court for failure to meet the criteria  
267 set forth in subsection 5 of this section may not refile  
268 another petition until a year has passed since the date of  
269 filing for the previous petition.

270 12. A person may be granted more than one expungement  
271 under this section provided that during his or her lifetime,

272 the total number of offenses, violations, or infractions for  
273 which orders of expungement are granted to the person shall  
274 not exceed the following limits:

275 (1) Not more than two misdemeanor offenses or  
276 ordinance violations that have an authorized term of  
277 imprisonment; and

278 (2) Not more than one felony offense.

279 A person may be granted expungement under this section  
280 for any number of infractions. Nothing in this section  
281 shall prevent the court from maintaining records to ensure  
282 that an individual has not exceeded the limitations of this  
283 subsection. Nothing in this section shall be construed to  
284 limit or impair in any way the subsequent use of any record  
285 expunged under this section of any arrests or findings of  
286 guilt by a law enforcement agency, criminal justice agency,  
287 prosecuting attorney, circuit attorney, or municipal  
288 prosecuting attorney, including its use as a prior offense,  
289 violation, or infraction.

290 13. The court shall make available a form for pro se  
291 petitioners seeking expungement, which shall include the  
292 following statement: "I declare under penalty of perjury  
293 that the statements made herein are true and correct to the  
294 best of my knowledge, information, and belief."

295 14. Nothing in this section shall be construed to  
296 limit or restrict the availability of expungement to any  
297 person under any other law.

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