

SENATE BILL NO. 435

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

0099S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 610, RSMo, by adding thereto four new sections relating to expungement.

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

Section A. Chapter 610, RSMo, is amended by adding thereto
2 four new sections, to be known as sections 610.141, 610.142,
3 610.143, and 610.144, to read as follows:

610.141. 1. As used in sections 610.140 to 610.146,
2 the following terms mean:

3 (1) "Automated expungement", technology-assisted,
4 state-initiated bulk closing of records in the manner
5 established under section 610.120;

6 (2) "Central repository", the Missouri state highway
7 patrol central repository for compiling and disseminating
8 complete and accurate criminal history records;

9 (3) "Charges pending", charges for which an individual
10 has not yet been sentenced;

11 (4) "Clean slate eligible offense", an infraction,
12 misdemeanor, or felony not listed under subsection 2 of
13 section 610.140 for which an electronic record exists;

14 (5) "Close" or "closed", to make records inaccessible
15 to the general public and to all individuals other than the
16 defendant, except as provided under section 610.120 and
17 chapter 43;

18 (6) "Expunge" or "expunged", to close a record in the
19 manner established under section 610.120;

20 (7) "Final disposition", the date the person has
21 completed his or her incarceration or probation and has
22 satisfied all obligations, including the payment of any
23 restitution, but not including the payment of outstanding
24 fines or fees imposed by the court;

25 (8) "Petitioner", includes a person who has petitioned
26 the court to have his or her conviction or convictions
27 expunged and a person whose conviction or convictions have
28 been automatically expunged under this section;

29 (9) "Traffic violation", a violation of the traffic
30 regulations provided under chapters 301, 302, 303, 304, and
31 307.

32 2. (1) Beginning August 28, 2028, all records and
33 files maintained in any administrative or court proceeding
34 in a municipal, associate, or circuit court pertaining to
35 clean slate eligible offenses shall be closed in the manner
36 established under section 610.120 without the filing of a
37 petition under section 610.140, subject to the limitations
38 contained in subdivisions (2), (3), and (4) of this
39 subsection and subject to the following:

40 (a) For cases in which the imposition of sentence has
41 been suspended, if an individual has successfully completed
42 probation, the record shall be closed so long as one year
43 has passed since final disposition, and the individual has
44 not committed any felony or misdemeanor offense other than a
45 traffic violation during that time;

46 (b) For infractions, municipal offenses, and
47 misdemeanors, the record shall be closed if one year has
48 passed since final disposition and the individual has not
49 committed any felony or misdemeanor offense other than a
50 traffic violation during that time;

51 (c) For felony offenses, the record shall be closed if
52 three years have passed since final disposition and the
53 individual has not committed any felony or misdemeanor
54 offense other than a traffic violation during that time;

55 (d) For all of an individual's offenses if the
56 individual has attained sixty-five years of age and has not
57 been convicted of any misdemeanors or felonies other than a
58 traffic violation or a technical violation of the terms of
59 their probation or parole in the immediate ten preceding
60 years; or

61 (e) All offenses for which the governor of Missouri
62 has granted a full pardon.

63 (2) Records pertaining to juvenile adjudications or
64 offenses involving the operation of a motor vehicle are not
65 eligible for automated expungement.

66 (3) No offense, violation, or infraction shall be
67 eligible for automated expungement if a person has charges
68 pending during the period of review for clean slate
69 eligibility as described in subsection 3 of this section.

70 (4) (a) An individual may be granted more than one
71 expungement under this section, provided that during his or
72 her lifetime the total number of offenses, violations, or
73 infractions for which expungement can be granted to the
74 individual under this section or section 610.140 shall not
75 exceed the following limits:

76 a. No more than two felony offenses; and

77 b. No more than four misdemeanor offenses or ordinance
78 violations that have an authorized term of imprisonment.

79 (b) An individual may be granted expungement under
80 this section for any number of infractions.

81 (c) If an individual's record contains more felonies
82 or misdemeanors than can be expunged during the individual's

83 lifetime under paragraph (a) of this subdivision, the
84 individual shall not be eligible for automated expungement
85 under this section.

86 (d) For purposes of determining lifetime limits on
87 expungement under this section and section 610.140:

88 a. If the offenses or violations were charged as
89 counts in the same case, all such offenses and violations
90 shall count as only the highest level offense or violation
91 in that case for purposes of determining lifetime limits on
92 expungement under this section and section 610.140.

93 However, if one or more counts in the same indictment or
94 information or conduct committed were a part of the same
95 course of criminal conduct as an offense listed in
96 subsection 2 of section 610.140, the entire record shall not
97 be expunged under this section.

98 b. If the offenses or violations were committed by an
99 individual who has reached sixty-five years of age and has
100 not been convicted of any misdemeanors or felonies other
101 than traffic violations in the immediate ten preceding
102 years, all clean slate eligible offenses shall be expunged.

103 (e) The court shall maintain records to ensure that a
104 person has not exceeded the limitations provided under this
105 subsection. Nothing in this section shall be construed to
106 limit or impair the subsequent use of any record maintained
107 by the court for the purpose of any law enforcement or
108 prosecutorial investigation or activity including any arrest
109 or findings of guilt expunged under this section by a law
110 enforcement agency, criminal justice agency, prosecuting
111 attorney, circuit attorney, or municipal prosecuting
112 attorney, including its use as a prior offense, violation,
113 or infraction in a subsequent criminal or civil
114 investigation or prosecution.

115 3. (1) Beginning August 28, 2028, on a monthly basis,
116 the office of state courts administrator shall identify and
117 transmit to the central repository and every prosecuting
118 agency in the state all clean slate eligible offense records
119 within thirty days of the record becoming eligible for
120 automated expungement.

121 (2) Records that are eligible for automated
122 expungement on or before August 28, 2025, shall be
123 identified and expunged by August 28, 2030.

124 (3) Delinquent court costs, fines, fees, or other sums
125 ordered by a court, except restitution owed to a victim of a
126 crime, shall not be expunged and shall not be considered by
127 the office of state courts administrator when determining
128 expungement of a record without the filing of a petition
129 under subsection 2 of this section. The office of state
130 courts administrator shall seek a setoff of any income tax
131 refund and lottery prize payouts under section 488.5028 for
132 all delinquent court costs, fines, fees, or other sums
133 ordered by a court relating to convictions expunged under
134 subsection 2 of this section.

135 (4) Each prosecuting agency in this state has no later
136 than sixty days from the day on which the notice described
137 in subdivision (1) of this subsection is transmitted to
138 object to an automated expungement and transmit such
139 objection to all parties. The prosecuting agency may object
140 to the automatic expungement for any of the following
141 reasons:

142 (a) After reviewing the prosecuting agency's record,
143 the agency believes the record does not meet the definition
144 of a clean slate eligible case;

145 (b) The person has not paid court-ordered restitution
146 to the victim; or

147 (c) The person has charges pending against them in
148 another case.

149 (5) If a prosecuting agency objects for a reason
150 described in subdivision (4) of this subsection, within
151 sixty days of the day on which the notice described in
152 subdivision (1) of this subsection is transmitted, the
153 record shall not be expunged.

154 (6) If sixty days have passed without an objection
155 from a prosecuting agency or the central repository for one
156 of the reasons set forth under this subsection, the office
157 of state courts administrator shall transmit within fifteen
158 days all the records to be expunged, sorted by circuit, to
159 the presiding judges of every circuit court.

160 (7) (a) Within thirty days of receiving a notice to
161 expunge, the circuit court shall issue orders for
162 expungement of all records maintained in the circuit for
163 which no notification of ineligibility was received by the
164 office of state courts administrator from the central
165 repository or a prosecuting agency unless the circuit court
166 determines the record is not eligible for automated
167 expungement.

168 (b) If the circuit court determines a record is not
169 eligible for automated expungement, the court shall notify
170 the office of state courts administrator in writing of its
171 determination within thirty days and shall specify the
172 reasons the court relied upon in making the determination.

173 (8) On a monthly basis, each circuit court shall issue
174 orders for expungement of all records of arrest, charge, and
175 conviction for ordinance violations and nonfingerprintable
176 offenses in the circuit that the court determines are
177 eligible for automated expungement.

178 (9) On a monthly basis, each circuit court shall
179 transmit copies of all orders for expungement that the court
180 issues under this section to the office of state courts
181 administrator.

182 (10) Once the transmitted records are expunged, the
183 office of state courts administrator shall provide notice to
184 all state agencies maintaining official copies of the
185 records including, but not limited to, the appropriate
186 circuit court clerk, the prosecuting or circuit attorney,
187 the arresting law enforcement agency or agencies, the
188 department of corrections, the central repository, and the
189 department of revenue to expunge the records within thirty
190 days.

191 (11) The Missouri state highway patrol shall retain a
192 nonpublic record of the order expunging a conviction or
193 other notification regarding a conviction that was
194 automatically expunged under this section and of the record
195 of the arrest, fingerprints, conviction, and sentence of the
196 person in the case to which the order or other notification
197 applies. The nonpublic record shall be made available only
198 to a court of competent jurisdiction, the office of state
199 courts administrator, the department of corrections, a law
200 enforcement agency, a prosecuting or circuit attorney, the
201 attorney general, or the governor upon request and only for
202 the following purposes:

203 (a) To show that a person who has filed a petition to
204 expunge a conviction has previously had a conviction
205 expunged under this section;

206 (b) The court's consideration in determining the
207 sentence to be imposed upon conviction for a subsequent
208 offense that is punishable as a felony or by imprisonment
209 for more than one year;

210 (c) Consideration by the governor if a person whose
211 conviction has been expunged applies for a pardon for
212 another offense;

213 (d) Consideration by the department of corrections or
214 a law enforcement agency if a person whose conviction has
215 been expunged applies for employment with the department of
216 corrections or a law enforcement agency;

217 (e) Consideration by a court, law enforcement agency,
218 prosecuting or circuit attorney, or the attorney general in
219 determining whether a person required to register under
220 sections 589.400 to 589.425 has committed an offense that
221 requires registration under sections 589.400 to 589.425, or
222 for use in a prosecution for committing an offense requiring
223 registration under sections 589.400 to 589.425; or

224 (f) Consideration by a court, law enforcement agency,
225 prosecuting or circuit attorney, or the attorney general for
226 use in making determinations regarding charges, plea offers,
227 and sentencing, as applicable.

228 (12) The office of state courts administrator shall
229 create a digital access portal of all orders of expungement
230 issued under this section. The portal shall allow users to
231 determine if an order for automated expungement has been
232 granted in an individual's name. The portal shall employ
233 measures to prevent disclosure of any order to anyone other
234 than the individual for whom the order was issued.

235 4. Any court sentencing an individual for a clean
236 slate eligible offense shall notify the individual at the
237 time of sentencing of the date when the individual's
238 conviction may become eligible for automated expungement
239 provided the individual is not convicted of any misdemeanor
240 or felony, not including a violation of a traffic

241 regulation, during the time period specified for the
242 underlying offense or offenses.

243 5. Any probation or parole office releasing an
244 individual from supervision for a clean slate eligible
245 offense shall notify the individual at the time supervision
246 is discharged of the date when the individual's record or
247 records may become eligible for automated expungement
248 provided the individual is not convicted of any misdemeanor
249 or felony, not including a violation of a traffic
250 regulation, during the time period specified for the
251 underlying offense or offenses.

252 6. The provisions of this section shall apply
253 retroactively to any arrest, charge, trial, and conviction
254 for which there is a digital record regardless of the date
255 that the arrest was made, the charge or charges were
256 brought, the trial occurred, or the conviction was entered.

257 7. Nothing in this section precludes an individual
258 from filing a petition for expungement of records under
259 section 610.140 if an individual is eligible for an
260 automated expungement under this section if such an
261 automated expungement has not yet occurred or cannot occur
262 pursuant to the provisions of this section.

263 8. Upon the occurrence of one of the circumstances
264 provided under subdivision (1) or (2) of this subsection, a
265 conviction that was expunged under this section shall be
266 reinstated by the court as provided in this subsection.

267 (1) If it is determined that a conviction was
268 improperly or erroneously expunged because the conviction
269 was not eligible to be expunged under this section, the
270 court shall, on its own motion, reinstate the conviction.

271 (2) Upon a motion by a person owed restitution or on
272 its own motion, the court shall reinstate a conviction that

273 was expunged under this section for which the person whose
274 conviction was expunged was ordered to pay restitution if
275 the court determines that the person has not made a good-
276 faith effort to pay the ordered restitution.

277 9. Upon the entry of an order under section 610.140,
278 or upon the automated expungement of a conviction under this
279 section, the petitioner, for purposes of the law, shall be
280 considered not to have been previously convicted, except for
281 purposes of the following:

282 (1) The petitioner shall not be entitled to the
283 remission of any fine, costs, or other moneys paid as a
284 consequence of a conviction that is expunged;

285 (2) This section shall not affect the right of the
286 petitioner to rely upon the conviction to bar subsequent
287 proceedings for the same offense;

288 (3) This section shall not affect the right of a
289 victim of an offense to bring or defend a civil action for
290 damages;

291 (4) This section shall not create a right to commence
292 an action for damages for incarceration under the sentence
293 that the petitioner served before the conviction is expunged
294 under this section;

295 (5) This section shall not relieve any obligation to
296 pay restitution owed to the victim of an offense nor shall
297 such sections affect the jurisdiction of the convicting
298 court or the authority of any court order with regard to
299 enforcing an order for restitution;

300 (6) A conviction, including any records relating to
301 the conviction and any records concerning a collateral
302 action, that has been expunged under this section shall not
303 be used as evidence in an action for negligent hiring,
304 admission, or licensure against any person; or

305 (7) A conviction that is expunged under this section
306 or section 610.140 may be considered a prior conviction by a
307 court, law enforcement agency, prosecuting attorney, or the
308 attorney general, as applicable, for purposes of charging a
309 crime as a second or subsequent offense or for sentencing
310 under section 550.016.

 610.142. Beginning August 28, 2027, the office of
2 state courts administrator shall report to the judiciary
3 committees of the senate and house of representatives, or
4 any successor committees, the following on a yearly basis:

5 (1) The number of records expunged under subsection 2
6 of section 610.141, by judicial circuit, with data
7 aggregated by race, sex, age, circuit, county, and offense
8 type and level; and

9 (2) The number of records transmitted back to the
10 office of state courts administrator from the Missouri state
11 highway patrol, any prosecuting agency, or any circuit court
12 on objection that the record is not eligible for automated
13 expungement or that the record does not match data held in
14 the central repository, by judicial circuit, with data
15 aggregated by race, sex, age, county, and offense type and
16 level.

 610.143. 1. A credit bureau may report records of
2 arrests, indictments pending trial, and convictions of
3 crimes for no longer than seven years from final
4 disposition. Records of arrests, indictments pending trial,
5 and convictions of crimes shall no longer be reported if at
6 any time after a conviction it is learned that a full pardon
7 or expungement has been granted for that conviction, or at
8 any time after an arrest or indictment it is learned that a
9 conviction did not result.

10 2. Any credit bureau or user of information that
11 willfully fails to comply with any requirement of this
12 section with respect to any consumer is liable to that
13 consumer in an amount equal to:

14 (1) Any actual damages sustained by the consumer as a
15 result of the failure;

16 (2) Punitive damages as the court may allow; and

17 (3) In the case of any successful action under this
18 section, costs of the action and reasonable attorney's fees
19 as determined by the court.

20 3. Any credit bureau or user of information that is
21 negligent in failing to comply with any requirement of this
22 section with respect to any consumer is liable to that
23 consumer in an amount equal to:

24 (1) Any actual damages sustained by the consumer as a
25 result of the failure; and

26 (2) In the case of any successful action under this
27 section, costs of the action and reasonable attorney's fees
28 as determined by the court.

29 4. Injunctive relief shall be available to any
30 consumer aggrieved by a violation or a threatened violation
31 of this section regardless of whether the consumer seeks any
32 other remedy under this section.

33 5. An employer who employs or otherwise engages an
34 individual whose criminal history record has been expunged
35 shall be immune from liability for any claim arising out of
36 the misconduct of the individual if the misconduct relates
37 to the portion of the criminal history record that has been
38 expunged.

610.144. 1. (1) There is hereby created in the state
2 treasury the "Missouri Expungement Fund", which shall
3 consist of moneys deposited into the fund from any source

4 including, but not limited to, gifts, donations, grants, and
5 bequests. The state treasurer shall be custodian of the
6 fund. In accordance with sections 30.170 and 30.180, the
7 state treasurer may approve disbursements. The fund shall
8 be a dedicated fund and, upon appropriation, moneys in this
9 fund shall be used solely as provided in subsection 2 of
10 this section.

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

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

19 2. The department of public safety, the information
20 technology services division within the office of
21 administration, and the office of state courts administrator
22 shall expend moneys from the fund, upon appropriation, only
23 for one or more of the following purposes:

24 (1) Implementation costs incurred under sections
25 610.141 to 610.143;

26 (2) System upgrades necessitated under sections
27 610.141 to 610.143; or

28 (3) Staffing needs necessitated under sections 610.141
29 to 610.143.

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