

SECOND REGULAR SESSION

SENATE BILL NO. 807

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS LeVOTA AND CURLS.

Read 1st time January 30, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5613S.02I

AN ACT

To repeal section 610.140, RSMo, and to enact in lieu thereof one new section relating to the expungement of certain criminal records.

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

Section A. Section 610.140, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 610.140, to read as follows:

610.140. 1. Notwithstanding any other provision of law and subject to the
2 provisions of this section, any person may apply to any court in which such
3 person was found guilty of any of the offenses specified in subsection 2 of this
4 section for an order to expunge recordations of such arrest, plea, trial, or
5 conviction. A person may apply to have one or more offenses expunged so long
6 as such person lists all the offenses he or she is seeking to have expunged in the
7 same petition and so long as all such offenses are eligible under subsection 2 of
8 this section.

9 2. The following offenses are eligible to be expunged when such offenses
10 occurred within the state of Missouri and were prosecuted under the jurisdiction
11 of a Missouri municipal associate or circuit court:

12 (1) Any felony or misdemeanor offense of **possession or control of a**
13 **controlled substance under section 195.202, possession of an imitation**
14 **controlled substance under section 195.241, criminal nonsupport under**
15 **section 568.040, tampering in the first degree under section 569.080,**
16 **property damage in the first degree under section 569.100, stealing**
17 **under section 573.030 or 570.040, stealing animals under section 570.033,**
18 **receiving stolen property under section 570.080,** passing a bad check under
19 **section 570.120, fraudulently stopping payment of an instrument under section**

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

20 570.125, or fraudulent use of a credit device or debit device under section 570.130;

21 **or**

22 (2) Any misdemeanor offense of sections **304.010**, 569.065, 569.067,
23 569.090, subdivision (1) of subsection 1 of section 569.120, sections 569.140,
24 569.145, 572.020, **574.010**, 574.020, or 574.075[; or

25 (3) Any class B or C misdemeanor offense of section 574.010].

26 3. The petition shall name as defendants all law enforcement agencies,
27 courts, prosecuting or circuit attorneys, central state repositories of criminal
28 records, or others who the petitioner has reason to believe may possess the
29 records subject to expungement for each of the offenses listed in the petition. **If**
30 **the petitioner requests the expungement of records that have been**
31 **closed under section 610.105 or 610.106, the petition shall be accepted**
32 **by the court under seal and the hearing shall only be open to named**
33 **defendants.** The court's order of expungement shall not affect any person or
34 entity not named as a defendant in the action.

35 4. The petition shall be dismissed if it does not include the following
36 information:

37 (1) The petitioner's:

38 (a) Full name;

39 (b) Sex;

40 (c) Race;

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

42 (e) Current address;

43 (2) Each offense charged against the petitioner for which the petitioner
44 is requesting expungement;

45 (3) The date the petitioner was arrested for each offense;

46 (4) The name of the county where the petitioner was arrested for each
47 offense and if any of the offenses occurred in a municipality, the name of the
48 municipality for each offense;

49 (5) The name of the agency that arrested the petitioner for each offense;

50 (6) The case number and name of the court for each offense; and

51 (7) Petitioner's fingerprints on a standard fingerprint card at the time of
52 filing a petition for expungement which will be forwarded to the central
53 repository for the sole purpose of positively identifying the petitioner.

54 5. The court may set a hearing on the matter no sooner than thirty days
55 from the filing of the petition and shall give reasonable notice of the hearing to

56 each entity named in the petition. At the hearing, the court may accept evidence
57 and hear testimony on, and may consider, the following criteria for each of the
58 offenses listed in the petition for expungement:

59 (1) It has been at least twenty years if the offense is a felony, or at least
60 ten years if the offense is a misdemeanor, municipal offense, or infraction, since
61 the person making the application completed:

62 (a) Any sentence of imprisonment; or

63 (b) Any period of probation or parole;

64 (2) The person has not been found guilty of a misdemeanor or felony, not
65 including violations of the traffic regulations provided under chapters 304 and
66 307, during the time period specified for the underlying offense in subdivision (1)
67 of this subsection;

68 (3) The person has paid any amount of restitution ordered by the court;

69 (4) The circumstances and behavior of the petitioner warrant the
70 expungement; and

71 (5) The expungement is consistent with the public welfare.

72 6. If the court determines at the conclusion of the hearing that such
73 person meets all the criteria set forth in subsection 5 of this section for each of
74 the offenses listed in the petition for expungement, the court may enter an order
75 of expungement. A copy of the order shall be provided to each entity named in
76 the petition, and, upon receipt of the order, each entity shall destroy any record
77 in its possession relating to any offense listed in the petition. If destruction of
78 the record is not feasible because of the permanent nature of the record books,
79 such record entries shall be blacked out. Entries of a record ordered expunged
80 shall be removed from all electronic files maintained with the state of Missouri,
81 except for the files of the court. The records and files maintained in any
82 administrative or court proceeding in a municipal, associate, or circuit court for
83 any offense ordered expunged under this section shall be confidential and only
84 available to the parties or by order of the court for good cause shown. The central
85 repository shall request the Federal Bureau of Investigation to expunge the
86 records from its files.

87 7. The order shall not limit any of the petitioner's rights that were
88 restricted as a collateral consequence of such person's criminal record, and such
89 rights shall be restored upon issuance of the order of expungement. Except as
90 otherwise provided under this section, the effect of such order shall be to restore
91 such person to the status he or she occupied prior to such arrests, pleas, trials,

92 or convictions as if such events had never taken place. No person as to whom
93 such order has been entered shall be held thereafter under any provision of law
94 to be guilty of perjury or otherwise giving a false statement by reason of his or
95 her failure to recite or acknowledge such arrests, pleas, trials, convictions, or
96 expungement in response to an inquiry made of him or her and no such inquiry
97 shall be made for information relating to an expungement, except the petitioner
98 shall disclose the expunged offense to any court when asked or upon being
99 charged with any subsequent offense. The expunged offense may be considered
100 a prior offense in determining a sentence to be imposed for any subsequent
101 offense that the person is found guilty of committing.

102 8. Notwithstanding the provisions of subsection 7 of this section to the
103 contrary, a person granted an expungement shall disclose any expunged offense
104 when the disclosure of such information is necessary to complete any application
105 for:

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

108 (2) Any license issued under chapter 313; or

109 (3) Paid or unpaid employment with an entity licensed under chapter 313,
110 any state-operated lottery, or any emergency services provider, including any law
111 enforcement agency.

112 Notwithstanding any provision of law to the contrary, an expunged offense shall
113 not be grounds for automatic disqualification of an applicant, but may be a factor
114 for denying employment, or a professional license, certificate, or permit.

115 9. If the court determines that such person has not met the criteria for
116 any of the offenses listed in the petition for expungement, the court shall enter
117 an order dismissing the petition. Any person whose petition for expungement has
118 been dismissed by the court for failure to meet the criteria set forth in subsection
119 5 of this section may not refile another petition until a year has passed since the
120 date of filing for the previous petition.

121 10. A person may be granted more than one expungement under this
122 section provided that no person shall be granted more than one order of
123 expungement from the same court. Nothing contained in this section shall
124 prevent the court from maintaining records to ensure that an individual has only
125 one petition for expungement granted by such court under this section.

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