

SECOND REGULAR SESSION

# SENATE BILL NO. 942

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time January 20, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6058S.011

## AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to the expungement of criminal records.

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

Section A. Chapter 610, RSMo, is amended by adding thereto one new section, to be known as section 610.108, to read as follows:

**610.108. 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person who meets the criteria described in this section may file a verified petition for expungement in the circuit court in any county where the person was found guilty for an order to expunge all recordations of such person's arrest, plea, trial, or conviction. A person may apply to have one or more offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition, the person was found guilty of all the offenses in the same circuit court, and all the offenses are eligible under subsection 2 of this section.**

**2. The following offenses are eligible:**

**(1) Any violation of prostitution under section 567.020;**

**(2) Any misdemeanor or felony violation of chapter 195 or 579 not involving possession or use of a weapon; except that, any felony committed by a commercial driver's license holder under chapter 195 or 579 shall not qualify for expungement under this section;**

**(3) Any misdemeanor or felony violation of criminal nonsupport under section 568.040; and**

**(4) All municipal ordinance violations and misdemeanor offenses,**

20 with the following exceptions:

21 (a) Driving while intoxicated under section 577.010;

22 (b) Driving with excessive blood alcohol content under section  
23 577.012;

24 (c) Any misdemeanor violation of chapter 566 or any other  
25 misdemeanor sexual offense;

26 (d) Any violation of an order of protection issued under chapter  
27 455;

28 (e) Any misdemeanor violation of section 568.050;

29 (f) Any misdemeanor violation of section 568.052;

30 (g) Any misdemeanor offense requiring registration under  
31 section 589.400; and

32 (h) Any municipal traffic ordinance violation or misdemeanor  
33 traffic offense committed by a holder of a commercial driver's license  
34 regardless of what type of vehicle the offense is committed in.

35 3. The petition shall name as defendants all law enforcement  
36 agencies, courts, prosecuting or circuit attorneys, central state  
37 repositories of criminal records, or others who the petitioner has  
38 reason to believe may possess the records subject to expungement for  
39 each of the offenses listed in the petition. The court's order of  
40 expungement shall not affect any person or entity not named as a  
41 defendant in the action.

42 4. The petition shall be dismissed if the following information is  
43 not given:

44 (1) The petitioner's:

45 (a) Full name;

46 (b) Sex;

47 (c) Race;

48 (d) Date of birth;

49 (e) Driver's license number;

50 (f) Social Security number; and

51 (g) Address at the time of the arrest for each offense listed in the  
52 petition;

53 (2) Each offense charged against the petitioner for which the

54 petitioner is requesting the expungement;

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

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

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

61 (6) The case number for each offense;

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

66 5. The court shall set a hearing on the matter no sooner than  
67 thirty days from the filing of the petition and shall give reasonable  
68 notice of the hearing to each entity named in the petition.

69 6. The court may enter an order of expungement only when the  
70 following criteria are met for each of the offenses listed in the petition:

71 (1) At least five years have elapsed since the person making the  
72 application has completed his or her:

73 (a) Sentence of imprisonment, if sentenced to jail or prison;

74 (b) Period of probation, if placed on probation; or

75 (c) Parole, if placed on parole; and

76 (2) The person has not been found guilty of a misdemeanor or  
77 felony offense during the five-year period specified in subdivision (1)  
78 of this subsection; and

79 (3) The person has not had any other petition for expungement  
80 granted under this section.

81 7. If the court determines at the conclusion of the hearing that  
82 such person meets all the criteria set forth in subsection 6 of this  
83 section for each of the offenses listed in the petition, the court shall  
84 enter an order of expungement. Upon granting the order of  
85 expungement, the records and files maintained in any administrative  
86 or court proceeding in an associate circuit or circuit court division of  
87 the circuit court for any offense ordered expunged shall be confidential

88 and only available to:

89 (1) The parties;

90 (2) Any federal, state, or local law enforcement agency for  
91 purposes of criminal investigations;

92 (3) Any federal, state, or local prosecutor for purposes of  
93 criminal prosecutions; or

94 (4) By order of the court for good cause shown.

95 Such records shall be admissible in a court of law for criminal  
96 prosecution of cases.

97 8. A copy of the order shall be provided to each entity named in  
98 the petition, and, upon receipt of the order, each entity, except any  
99 circuit court, shall destroy any record in its possession relating to any  
100 offense listed in the petition. If destruction of the record is not feasible  
101 because of the permanent nature of the record books, such record  
102 entries shall be blacked out. Entries of a record ordered expunged  
103 shall be removed from all electronic files maintained with the state of  
104 Missouri, except for the files of the circuit court. The central  
105 repository shall request the Federal Bureau of Investigation to expunge  
106 the records from its files.

107 9. If the court determines that such person has not met the  
108 criteria for any of the offenses listed in the petition for expungement,  
109 the court shall enter an order dismissing the petition. Any person  
110 whose petition for expungement has been dismissed by the court for  
111 failure to meet the criteria set forth in subsection 6 of this section may  
112 refile such petition as soon as all the criteria have been met for each  
113 of the offenses listed in the petition.

114 10. Except in accordance with subsection 7 of this section for  
115 criminal investigations and prosecutions:

116 (1) The effect of the order shall be to restore the person to the  
117 status he or she occupied prior to such arrests, pleas, trials, or  
118 convictions; and

119 (2) No person as to whom an order has been entered shall be  
120 held thereafter to be guilty of perjury or otherwise giving a false  
121 statement by reason of his or her failure to recite or acknowledge such

122 arrests, pleas, trials, convictions, or expungement in response to any  
123 inquiry made of him or her and no such inquiry shall be made for  
124 information relating to the expungement.

125       11. The supreme court shall promulgate rules establishing  
126 procedures for the handling of cases filed under the provisions of this  
127 section. Such procedures shall be similar to the procedures established  
128 in chapter 482 for the handling of small claims.

129       12. Nothing contained in this section shall prevent the court  
130 from maintaining such records as to ensure that an individual has only  
131 one petition for expungement granted under this section.

✓

Bill

Copy