

SECOND REGULAR SESSION

# SENATE BILL NO. 559

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Pre-filed December 12, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4174S.011

## AN ACT

To repeal sections 561.026 and 577.054, RSMo, and to enact in lieu thereof three new sections relating to petitions to expunge certain criminal records.

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

Section A. Sections 561.026 and 577.054, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 488.650, 561.026,  
3 and 610.140, to read as follows:

**488.650. There shall be assessed as costs a surcharge in the  
2 amount of five hundred dollars on all petitions for expungement filed  
3 under the provisions of section 610.140. Such surcharge shall be  
4 collected and disbursed by the clerk of the court as provided by  
5 sections 488.010 to 488.020. Moneys collected from this surcharge shall  
6 be payable to the general revenue fund.**

561.026. Notwithstanding any other provision of law **except for section  
2 610.140**, a person who is convicted:

3 (1) Of any crime shall be disqualified from registering and voting in any  
4 election under the laws of this state while confined under a sentence of  
5 imprisonment;

6 (2) Of a felony or misdemeanor connected with the exercise of the right  
7 of suffrage shall be forever disqualified from registering and voting;

8 (3) Of any felony shall be forever disqualified from serving as a juror.

**610.140. 1. Notwithstanding any other provision of law and  
2 subject to the provisions of this section, any person may apply to any  
3 court in which he or she plead guilty or was found guilty of any of the  
4 offenses specified in subsection 2 of this section for an order to**

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

5 expunge from all official records all recordations of his or her arrest,  
6 plea, trial, or conviction. A person may apply to have one or more  
7 offenses expunged so long as such person lists all the offenses he or she  
8 is seeking to have expunged in the same petition and so long as all such  
9 offenses are eligible under subsection 2 of this section.

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

14 (1) All felony offenses, except murder in the first or second  
15 degree, involuntary manslaughter, kidnapping, robbery in the first  
16 degree, assault in the first degree, or any offense that requires  
17 registration under sections 589.400 to 589.425;

18 (2) Any misdemeanor offense, except any offense that requires  
19 registration under sections 589.400 to 589.425; and

20 (3) Any municipal offense or infraction.

21 3. The court may order expungement under this section only  
22 when the following criteria are met for each of the offenses listed in the  
23 petition for expungement:

24 (1) It has been at least eight years since the person making the  
25 application completed:

26 (a) Any sentence of imprisonment; or

27 (b) Any period of probation or parole; and

28 (2) The person has not been convicted of a misdemeanor or  
29 felony, or been placed on probation for a misdemeanor or felony during  
30 the eight-year period specified in subdivision (1) of this  
31 subsection. For purposes of this paragraph, violations of the traffic  
32 regulations provided under chapters 304 and 307 shall not be  
33 considered.

34 4. If the court determines, after hearing, that such person meets  
35 all the criteria set forth in subsection 3 of this section for each of the  
36 offenses listed in the petition for expungement the court shall enter an  
37 order of expungement. If the court determines that such person has  
38 not met the criteria for any of the offenses listed in the petition for  
39 expungement, the court shall enter an order dismissing the  
40 petition. Any person whose petition for expungement has been  
41 dismissed by the court for failure to meet the criteria set forth in

42 subsection 3 of this section may refile such petition as soon as all the  
43 criteria has been met for each of the offenses listed in the petition.

44 5. Upon granting of the order of expungement, the records and  
45 files maintained in any administrative or court proceeding in a  
46 municipal court, an associate circuit or circuit court division of the  
47 circuit court for any offense ordered expunged under this section shall  
48 be confidential and only available to the parties or by order of the  
49 court for good cause shown. The effect of such order shall be to restore  
50 such person to the status he or she occupied prior to such arrests,  
51 pleas, trials, or convictions as if such events had never taken place. No  
52 person as to whom such order has been entered shall be held thereafter  
53 under any provision of law to be guilty of perjury or otherwise giving  
54 a false statement by reason of his or her failure to recite or  
55 acknowledge such arrests, pleas, trials, convictions, or expungement in  
56 response to any inquiry made of him or her for any purpose whatsoever  
57 and no such inquiry shall be made for information relating to an  
58 expungement under this section.

59 6. Any person who wishes to have a record of arrests, pleas,  
60 trials, or convictions expunged under the provisions of this section may  
61 file a verified petition for expungement in the civil division of the  
62 circuit court in which the person plead or was found guilty as provided  
63 in subsection 1 of this section. The petition shall be dismissed if it does  
64 not include the following information:

65 (1) The petitioner's:

66 (a) Full name;

67 (b) Sex;

68 (c) Race;

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

70 (e) Social Security number; and

71 (f) Current address;

72 (2) Each offense charged against the petitioner for which the  
73 petitioner is requesting expungement;

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

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

78 (5) The name of the agency that arrested the petitioner for each

79 offense;

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

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

85 7. The petition shall name as defendants all law enforcement  
86 agencies, courts, prosecuting attorneys, central state repositories of  
87 criminal records, or others who the petitioner has reason to believe  
88 may possess the records subject to expungement for each of the  
89 offenses listed in the petition. The court's order of expungement shall  
90 not affect any person or entity not named as a defendant in the action.

91 8. The court shall set a hearing on the matter no sooner than  
92 thirty days from the filing of the petition and shall give reasonable  
93 notice of the hearing to each entity named in the petition.

94 9. If the court finds that the petitioner is entitled to  
95 expungement it shall enter an order directing expungement. A copy of  
96 the order shall be provided to each entity named in the petition.

97 10. The Missouri supreme court shall promulgate rules  
98 establishing procedures for the handling of cases filed under the  
99 provisions of this section. Such procedures shall be similar to the  
100 procedures established in chapter 482 for the handling of small claims.

101 11. Nothing contained in this section shall prevent the court  
102 from maintaining records to ensure that an individual has only one  
103 petition for expungement granted under this section.

[577.054. 1. After a period of not less than ten years, an  
2 individual who has pleaded guilty or has been convicted for a first  
3 alcohol-related driving offense which is a misdemeanor or a county  
4 or city ordinance violation and which is not a conviction for driving  
5 a commercial motor vehicle while under the influence of alcohol  
6 and who since such date has not been convicted of any other  
7 alcohol-related driving offense may apply to the court in which he  
8 or she pled guilty or was sentenced for an order to expunge from all  
9 official records all recordations of his or her arrest, plea, trial or  
10 conviction. If the court determines, after hearing, that such person  
11 has not been convicted of any subsequent alcohol-related driving  
12 offense, has no other subsequent alcohol-related enforcement

13 contacts as defined in section 302.525, and has no other  
14 alcohol-related driving charges or alcohol-related enforcement  
15 actions pending at the time of the hearing on the application, the  
16 court shall enter an order of expungement. Upon granting of the  
17 order of expungement, the records and files maintained in any  
18 administrative or court proceeding in an associate or circuit  
19 division of the circuit court under this section shall be confidential  
20 and only available to the parties or by order of the court for good  
21 cause shown. The effect of such order shall be to restore such  
22 person to the status he or she occupied prior to such arrest, plea or  
23 conviction and as if such event had never taken place. No person  
24 as to whom such order has been entered shall be held thereafter  
25 under any provision of any law to be guilty of perjury or otherwise  
26 giving a false statement by reason of his or her failure to recite or  
27 acknowledge such arrest, plea, trial, conviction or expungement in  
28 response to any inquiry made of him or her for any purpose  
29 whatsoever and no such inquiry shall be made for information  
30 relating to an expungement under this section. A person shall only  
31 be entitled to one expungement pursuant to this section. Nothing  
32 contained in this section shall prevent the director from  
33 maintaining such records as to ensure that an individual receives  
34 only one expungement pursuant to this section for the purpose of  
35 informing the proper authorities of the contents of any record  
36 maintained pursuant to this section.

37 2. The provisions of this section shall not apply to any  
38 individual who has been issued a commercial driver's license or is  
39 required to possess a commercial driver's license issued by this  
40 state or any other state.]

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