

SECOND REGULAR SESSION

SENATE BILL NO. 556

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Pre-filed December 1, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

4606S.02I

AN ACT

To repeal section 610.140, RSMo, and to enact in lieu thereof four new sections relating to public safety, with penalty provisions.

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

Section A. Section 610.140, RSMo, is repealed and four new sections
2 enacted in lieu thereof, to be known as sections 319.510, 319.515, 610.140, and
3 650.605, to read as follows:

**319.510. Sections 319.515, 610.108, and 650.605 shall be known as
2 the "Public Safety Act".**

**319.515. 1. Any owner of a firearm who knows or should know
2 that the firearm has been lost or stolen shall report the loss or theft of
3 the firearm within twenty-four hours of becoming aware, or when the
4 owner should have become aware, of the loss or theft to the local law
5 enforcement agency in the city, town, or village, or sheriff's office in
6 the county, in which the loss or theft occurred.**

**7 2. Failure to report the loss or theft of a firearm as required by
8 this section is an infraction punishable by a fine of one thousand
9 dollars. Failure to report the loss or theft of a firearm for a second or
10 subsequent time is a class A misdemeanor.**

**11 3. A holder of a concealed carry permit who fails to immediately
12 pay, upon adjudication, any fine ordered pursuant to this section shall
13 surrender his or her permit to the court and such permit shall be
14 suspended for one calendar year from the date the fine was ordered
15 pursuant to the procedures for permit suspensions provided under
16 section 571.104. The court shall return the permit to the holder at the**

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

17 **end of the one-year period. Any person who fails to immediately pay,**
18 **upon adjudication, a fine ordered pursuant to this section shall be**
19 **ineligible for a concealed carry permit for one calendar year from the**
20 **date the fine was ordered. The court shall forward a notice of the**
21 **failure to pay to the sheriff's office in the county in which the person**
22 **resides.**

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 chapter 195 not**
13 **involving the use or possession of a weapon, except that any felony**
14 **committed by a commercial driver's license holder under chapter 195**
15 **shall not qualify for expungement under this section;**

16 (2) **Any felony or misdemeanor offense of prostitution under**
17 **section 567.020;**

18 (3) Any felony or misdemeanor offense of **criminal nonsupport under**
19 **section 568.040**, passing a bad check under **section 570.120**, fraudulently
20 stopping payment of an instrument under **section 570.125**, or fraudulent use of
21 a credit device or debit device under section 570.130;

22 [(2)] (4) Any misdemeanor offense of sections 569.065, 569.067, 569.090,
23 subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145,
24 572.020, 574.020, or 574.075; or

25 [(3)] (5) 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. The
30 court's order of expungement shall not affect any person or entity not named as

31 a defendant in the action.

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

34 (1) The petitioner's:

35 (a) Full name;

36 (b) Sex;

37 (c) Race;

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

39 (e) Current address;

40 (2) Each offense charged against the petitioner for which the petitioner
41 is requesting expungement;

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

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

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

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

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

51 5. The court may set a hearing on the matter no sooner than thirty days
52 from the filing of the petition and shall give reasonable notice of the hearing to
53 each entity named in the petition. At the hearing, the court may accept evidence
54 and hear testimony on, and may consider, the following criteria for each of the
55 offenses listed in the petition for expungement:

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

59 (a) Any sentence of imprisonment; or

60 (b) Any period of probation or parole;

61 (2) The person has not been found guilty of a misdemeanor or felony, not
62 including violations of the traffic regulations provided under chapters 304 and
63 307, during the time period specified for the underlying offense in subdivision (1)
64 of this subsection;

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

66 (4) The circumstances and behavior of the petitioner warrant the

67 expungement; and

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

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

84 7. The order shall not limit any of the petitioner's rights that were
85 restricted as a collateral consequence of such person's criminal record, and such
86 rights shall be restored upon issuance of the order of expungement. Except as
87 otherwise provided under this section, the effect of such order shall be to restore
88 such person to the status he or she occupied prior to such arrests, pleas, trials,
89 or convictions as if such events had never taken place. No person as to whom
90 such order has been entered shall be held thereafter under any provision of law
91 to be guilty of perjury or otherwise giving a false statement by reason of his or
92 her failure to recite or acknowledge such arrests, pleas, trials, convictions, or
93 expungement in response to an inquiry made of him or her and no such inquiry
94 shall be made for information relating to an expungement, except the petitioner
95 shall disclose the expunged offense to any court when asked or upon being
96 charged with any subsequent offense. The expunged offense may be considered
97 a prior offense in determining a sentence to be imposed for any subsequent
98 offense that the person is found guilty of committing.

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

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

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

106 (3) Paid or unpaid employment with an entity licensed under chapter 313,
107 any state-operated lottery, or any emergency services provider, including any law
108 enforcement agency. Notwithstanding any provision of law to the contrary, an
109 expunged offense shall not be grounds for automatic disqualification of an
110 applicant, but may be a factor for denying employment, or a professional license,
111 certificate, or permit.

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

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

**650.605. 1. There is hereby established a firearms recovery pilot
2 program to be implemented by the department of public safety to
3 encourage law enforcement agencies to participate in firearms recovery
4 programs in which individuals are given a gift certificate of a
5 predetermined value that is redeemable in merchandise at a grocery
6 store in exchange for surrendering a firearm to a law enforcement
7 agency. Through the program, the department shall distribute grants
8 to municipal and county law enforcement agencies to support their
9 participation in such firearms recovery programs. The department
10 shall promulgate rules and regulations for the implementation of this
11 program, including rules regarding the manner in which funds shall be
12 distributed and allocated and in which gift certificates shall be
13 purchased and distributed, and guidelines for the safe storage and
14 transfer of recovered weapons in the possession of the participating
15 law enforcement agency. Each participating law enforcement agency
16 shall select the location site for the firearms recovery program in**

17 coordination with local community groups, designate dates and times
18 when firearms may be surrendered, and determine the value of the gift
19 certificate to be exchanged for each surrendered firearm.

20 2. There is hereby created in the state treasury the "Firearms
21 Recovery Fund". The state treasurer shall be custodian of the fund. In
22 accordance with sections 30.170 and 30.180, the state treasurer may
23 approve disbursements. During the 2015, 2016, and 2017 fiscal years,
24 the general assembly shall appropriate three hundred thousand dollars
25 to the firearms recovery fund. The fund shall be a dedicated fund and,
26 upon appropriation, money in the fund shall be used solely for the
27 administration of this section. The treasurer is authorized to accept all
28 gifts, bequests, and donations from any private source whatsoever to
29 the fund and all such gifts, bequests, and donations shall be placed in
30 the fund. Notwithstanding the provisions of section 33.080 to the
31 contrary, any moneys remaining in the fund at the end of the biennium
32 shall not revert to the credit of the general revenue fund. The state
33 treasurer shall invest moneys in the fund in the same manner as other
34 funds are invested. Any interest and moneys earned on such
35 investments shall be credited to the fund.

36 3. Section 571.067 shall not apply to firearms recovery programs
37 organized under this section.

38 4. All firearms surrendered to a participating law enforcement
39 agency shall be sent to the department of public safety, except that a
40 firearm determined to have been used in a crime shall be retained for
41 evidence and any stolen firearm shall be returned to its rightful owner
42 on proof of ownership unless the lawful owner of the firearm is
43 ineligible to possess a firearm under applicable state laws. Firearms
44 received by the department of public safety may be distributed to the
45 department of conservation for training purposes.

46 5. Any individual who elects to surrender a firearm anonymously
47 to a law enforcement agency participating in a firearms recovery
48 program may do so and personal identification shall not be required to
49 be presented at the time of redemption. Notwithstanding any law to
50 the contrary, any person participating in a firearms recovery program
51 shall be immune from criminal prosecution for the criminal offenses
52 defined in section 571.020 and subdivision (1) of subsection 1 of section
53 571.030, provided the person is, in good faith, on an immediate, direct

54 route to the predetermined firearms recovery program site.

55 6. The provisions of this section shall expire on August 28, 2018.

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Unofficial

Bill

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