

FIRST REGULAR SESSION

# SENATE BILL NO. 307

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CURLS.

Read 1st time January 26, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1700S.01I

## AN ACT

To repeal section 610.140, RSMo, and to enact in lieu thereof one new section relating to expungement of 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Section A. Section 610.140, RSMo, is repealed and one new section  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 **an infraction, municipal offense, misdemeanor**  
4 **offense, or felony offense, except** any of the offenses specified in subsection  
5 2 of this section, for an order to expunge recordations of such arrest, plea, trial,  
6 or conviction. A person may apply to have one or more offenses expunged so long  
7 as such person lists all the offenses he or she is seeking to have expunged in the  
8 same petition and so long as all such offenses are eligible under subsection 2 of  
9 this section.

10 2. [The following offenses are] **Any infraction, municipal offense,**  
11 **misdemeanor offense, or felony offense** is eligible to be expunged when such  
12 [offenses] **offense** occurred within the state of Missouri and [were] **was**  
13 prosecuted under the jurisdiction of a Missouri municipal associate or circuit  
14 court, **except the following offenses shall not be eligible for**  
15 **expungement:**

16 (1) Any [felony or misdemeanor offense of passing a bad check under  
17 570.120, fraudulently stopping payment of an instrument under 570.125, or  
18 fraudulent use of a credit device or debit device under section 570.130] **offense**  
19 **involving the use or possession of a weapon;**

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

20 (2) Any [misdemeanor offense of sections 569.065, 569.067, 569.090,  
21 subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145,  
22 572.020, 574.020, or 574.075] **offense involving the infliction of forcible**  
23 **compulsion, physical injury, or death upon another person; or**

24 (3) Any [class B or C misdemeanor offense of section 574.010] **offense**  
25 **requiring registration on the sex offender registry under section**  
26 **589.400.**

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

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

35 (1) The petitioner's:

36 (a) Full name;

37 (b) Sex;

38 (c) Race;

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

40 (e) Current address;

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

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

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

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

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

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

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

56 offenses listed in the petition for expungement:

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

60 (a) Any sentence of imprisonment; or

61 (b) Any period of probation or parole;

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

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

67 (4) The circumstances and behavior of the petitioner warrant the  
68 expungement; and

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

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

85 7. The order shall not limit any of the petitioner's rights that were  
86 restricted as a collateral consequence of such person's criminal record, and such  
87 rights shall be restored upon issuance of the order of expungement. Except as  
88 otherwise provided under this section, the effect of such order shall be to restore  
89 such person to the status he or she occupied prior to such arrests, pleas, trials,  
90 or convictions as if such events had never taken place. No person as to whom  
91 such order has been entered shall be held thereafter under any provision of law

92 to be guilty of perjury or otherwise giving a false statement by reason of his or  
93 her failure to recite or acknowledge such arrests, pleas, trials, convictions, or  
94 expungement in response to an inquiry made of him or her and no such inquiry  
95 shall be made for information relating to an expungement, except the petitioner  
96 shall disclose the expunged offense to any court when asked or upon being  
97 charged with any subsequent offense. The expunged offense may be considered  
98 a prior offense in determining a sentence to be imposed for any subsequent  
99 offense that the person is found guilty of committing.

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

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

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

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

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

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

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