

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill No. 996, Page 72, Section 595.220, Line 24,

by inserting after all of said line the following:

"610.140. 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was charged or found guilty of any offenses, violations, or infractions for an order to expunge records of such arrest, plea, trial, or conviction. Subject to the limitations of subsection 12 of this section, a person may apply to have one or more offenses, violations, or infractions expunged if such offense, violation, or infraction occurred within the state of Missouri and was prosecuted under the jurisdiction of a Missouri municipal, associate circuit, or circuit court, so long as such person lists all the offenses, violations, and infractions he or she is seeking to have expunged in the petition and so long as all such offenses, violations, and infractions are not excluded under subsection 2 of this section. If the offenses, violations, or infractions were charged as counts in the same indictment or information or were committed as part of the same course of criminal conduct, the person may include all the related offenses, violations, and infractions in the petition, regardless of the limits of subsection 12 of this

1 section, and the petition shall only count as a petition for
2 expungement of the highest level violation or offense contained
3 in the petition for the purpose of determining future eligibility
4 for expungement.

5 2. The following offenses, violations, and infractions
6 shall not be eligible for expungement under this section:

7 (1) Any class A felony offense;

8 (2) Any dangerous felony as that term is defined in section
9 556.061;

10 (3) Any offense that requires registration as a sex
11 offender;

12 (4) Any felony offense where death is an element of the
13 offense;

14 (5) Any felony offense of assault; misdemeanor or felony
15 offense of domestic assault; or felony offense of kidnapping;

16 (6) Any offense listed, or previously listed, in chapter
17 566 or section 105.454, 105.478, 115.631, 130.028, 188.030,
18 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,
19 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086,
20 565.095, 565.120, 565.130, 565.156, 565.200, 565.214, 566.093,
21 566.111, 566.115, 568.020, 568.030, 568.032, 568.045, 568.060,
22 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040,
23 569.050, 569.055, 569.060, 569.065, 569.067, 569.072, 569.100,
24 569.160, 570.025, 570.030, 570.090, 570.100, 570.130, 570.180,
25 570.223, 570.224, 570.310, 571.020, [571.030,] 571.060, 571.063,
26 571.070, 571.072, 571.150, 574.070, 574.105, 574.115, 574.120,
27 574.130, 575.040, 575.095, 575.153, 575.155, 575.157, 575.159,
28 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, 575.350,
29 575.353, 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or

632.520;

(7) Any offense eligible for expungement under section 577.054 or 610.130;

(8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated condition;

(9) Any ordinance violation that is the substantial equivalent of any offense that is not eligible for expungement under this section; [and]

(10) Any [violations] violation of any state law or county or municipal ordinance regulating the operation of motor vehicles when committed by an individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state; and

(11) Any offense of section 571.030, except any offense under subdivision (1) of subsection 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017.

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

4. The petition shall include the following information:

(1) The petitioner's:

1 (a) Full name;

2 (b) Sex;

3 (c) Race;

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

5 (e) Current address;

6 (2) Each offense, violation, or infraction for which the
7 petitioner is requesting expungement;

8 (3) The approximate date the petitioner was charged for
9 each offense, violation, or infraction; and

10 (4) The name of the county where the petitioner was charged
11 for each offense, violation, or infraction and if any of the
12 offenses, violations, or infractions occurred in a municipality,
13 the name of the municipality for each offense, violation, or
14 infraction; and

15 (5) The case number and name of the court for each offense.

16 5. The clerk of the court shall give notice of the filing
17 of the petition to the office of the prosecuting attorney,
18 circuit attorney, or municipal prosecuting attorney that
19 prosecuted the offenses, violations, or infractions listed in the
20 petition. If the prosecuting attorney, circuit attorney, or
21 municipal prosecuting attorney objects to the petition for
22 expungement, he or she shall do so in writing within thirty days
23 after receipt of service. Unless otherwise agreed upon by the
24 parties, the court shall hold a hearing within sixty days after
25 any written objection is filed, giving reasonable notice of the
26 hearing to the petitioner. If no objection has been filed within
27 thirty days after receipt of service, the court may set a hearing
28 on the matter and shall give reasonable notice of the hearing to
29 each entity named in the petition. At any hearing, the court may

1 accept evidence and hear testimony on, and may consider, the
2 following criteria for each of the offenses, violations, or
3 infractions listed in the petition for expungement:

4 (1) It has been at least seven years if the offense is a
5 felony, or at least three years if the offense is a misdemeanor,
6 municipal offense, or infraction, from the date the petitioner
7 completed any authorized disposition imposed under section
8 557.011 for each offense, violation, or infraction listed in the
9 petition;

10 (2) The person has not been found guilty of any other
11 misdemeanor or felony, not including violations of the traffic
12 regulations provided under chapters 304 and 307, during the time
13 period specified for the underlying offense, violation, or
14 infraction in subdivision (1) of this subsection;

15 (3) The person has satisfied all obligations relating to
16 any such disposition, including the payment of any fines or
17 restitution;

18 (4) The person does not have charges pending;

19 (5) The petitioner's habits and conduct demonstrate that
20 the petitioner is not a threat to the public safety of the state;
21 and

22 (6) The expungement is consistent with the public welfare
23 and the interests of justice warrant the expungement.
24

25 A pleading by the petitioner that such petitioner meets the
26 requirements of subdivisions (5) and (6) of this subsection shall
27 create a rebuttable presumption that the expungement is warranted
28 so long as the criteria contained in subdivisions (1) to (4) of
29 this subsection are otherwise satisfied. The burden shall shift

1 to the prosecuting attorney, circuit attorney, or municipal
2 prosecuting attorney to rebut the presumption. A victim of an
3 offense, violation, or infraction listed in the petition shall
4 have an opportunity to be heard at any hearing held under this
5 section, and the court may make a determination based solely on
6 such victim's testimony.

7 6. A petition to expunge records related to an arrest for
8 an eligible offense, violation, or infraction may be made in
9 accordance with the provisions of this section to a court of
10 competent jurisdiction in the county where the petitioner was
11 arrested no earlier than three years from the date of arrest;
12 provided that, during such time, the petitioner has not been
13 charged and the petitioner has not been found guilty of any
14 misdemeanor or felony offense.

15 7. If the court determines that such person meets all the
16 criteria set forth in subsection 5 of this section for each of
17 the offenses, violations, or infractions listed in the petition
18 for expungement, the court shall enter an order of expungement.
19 In all cases under this section, the court shall issue an order
20 of expungement or dismissal within six months of the filing of
21 the petition. A copy of the order of expungement shall be
22 provided to the petitioner and each entity possessing records
23 subject to the order, and, upon receipt of the order, each entity
24 shall close any record in its possession relating to any offense,
25 violation, or infraction listed in the petition, in the manner
26 established by section 610.120. The records and files maintained
27 in any administrative or court proceeding in a municipal,
28 associate, or circuit court for any offense, infraction, or
29 violation ordered expunged under this section shall be

1 confidential and only available to the parties or by order of the
2 court for good cause shown. The central repository shall request
3 the Federal Bureau of Investigation to expunge the records from
4 its files.

5 8. The order shall not limit any of the petitioner's rights
6 that were restricted as a collateral consequence of such person's
7 criminal record, and such rights shall be restored upon issuance
8 of the order of expungement. Except as otherwise provided under
9 this section, the effect of such order shall be to restore such
10 person to the status he or she occupied prior to such arrests,
11 pleas, trials, or convictions as if such events had never taken
12 place. No person as to whom such order has been entered shall be
13 held thereafter under any provision of law to be guilty of
14 perjury or otherwise giving a false statement by reason of his or
15 her failure to recite or acknowledge such arrests, pleas, trials,
16 convictions, or expungement in response to an inquiry made of him
17 or her and no such inquiry shall be made for information relating
18 to an expungement, except the petitioner shall disclose the
19 expunged offense, violation, or infraction to any court when
20 asked or upon being charged with any subsequent offense,
21 violation, or infraction. The expunged offense, violation, or
22 infraction may be considered a prior offense in determining a
23 sentence to be imposed for any subsequent offense that the person
24 is found guilty of committing.

25 9. Notwithstanding the provisions of subsection 8 of this
26 section to the contrary, a person granted an expungement shall
27 disclose any expunged offense, violation, or infraction when the
28 disclosure of such information is necessary to complete any
29 application for:

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

3 (2) Any license issued under chapter 313 or permit issued
4 under chapter 571;

5 (3) Paid or unpaid employment with an entity licensed under
6 chapter 313, any state-operated lottery, or any emergency
7 services provider, including any law enforcement agency;

8 (4) Employment with any federally insured bank or savings
9 institution or credit union or an affiliate of such institution
10 or credit union for the purposes of compliance with 12 U.S.C.
11 Section 1829 and 12 U.S.C. Section 1785;

12 (5) Employment with any entity engaged in the business of
13 insurance or any insurer for the purpose of complying with 18
14 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar law
15 which requires an employer engaged in the business of insurance
16 to exclude applicants with certain criminal convictions from
17 employment; or

18 (6) Employment with any employer that is required to
19 exclude applicants with certain criminal convictions from
20 employment due to federal or state law, including corresponding
21 rules and regulations.

22
23 An employer shall notify an applicant of the requirements under
24 subdivisions (4) to (6) of this subsection. Notwithstanding any
25 provision of law to the contrary, an expunged offense, violation,
26 or infraction shall not be grounds for automatic disqualification
27 of an applicant, but may be a factor for denying employment, or a
28 professional license, certificate, or permit; except that, an
29 offense, violation, or infraction expunged under the provisions

1 of this section may be grounds for automatic disqualification if
2 the application is for employment under subdivisions (4) to (6)
3 of this subsection.

4 10. A person who has been granted an expungement of records
5 pertaining to a misdemeanor or felony offense, an ordinance
6 violation, or an infraction may answer "no" to an employer's
7 inquiry into whether the person has ever been convicted of a
8 crime if, after the granting of the expungement, the person has
9 no public record of a misdemeanor or felony offense, an ordinance
10 violation, or an infraction. The person, however, shall answer
11 such an inquiry affirmatively and disclose his or her criminal
12 convictions, including any offense or violation expunged under
13 this section or similar law, if the employer is required to
14 exclude applicants with certain criminal convictions from
15 employment due to federal or state law, including corresponding
16 rules and regulations.

17 11. If the court determines that the petitioner has not met
18 the criteria for any of the offenses, violations, or infractions
19 listed in the petition for expungement or the petitioner has
20 knowingly provided false information in the petition, the court
21 shall enter an order dismissing the petition. Any person whose
22 petition for expungement has been dismissed by the court for
23 failure to meet the criteria set forth in subsection 5 of this
24 section may not refile another petition until a year has passed
25 since the date of filing for the previous petition.

26 12. A person may be granted more than one expungement under
27 this section provided that during his or her lifetime, the total
28 number of offenses, violations, or infractions for which orders
29 of expungement are granted to the person shall not exceed the

1 following limits:

2 (1) Not more than two misdemeanor offenses or ordinance
3 violations that have an authorized term of imprisonment; and

4 (2) Not more than one felony offense.
5

6 A person may be granted expungement under this section for any
7 number of infractions. Nothing in this section shall prevent the
8 court from maintaining records to ensure that an individual has
9 not exceeded the limitations of this subsection. Nothing in this
10 section shall be construed to limit or impair in any way the
11 subsequent use of any record expunged under this section of any
12 arrests or findings of guilt by a law enforcement agency,
13 criminal justice agency, prosecuting attorney, circuit attorney,
14 or municipal prosecuting attorney, including its use as a prior
15 offense, violation, or infraction.

16 13. The court shall make available a form for pro se
17 petitioners seeking expungement, which shall include the
18 following statement: "I declare under penalty of perjury that
19 the statements made herein are true and correct to the best of my
20 knowledge, information, and belief."

21 14. Nothing in this section shall be construed to limit or
22 restrict the availability of expungement to any person under any
23 other law."; and

24 Further amend the title and enacting clause accordingly.