

SENATE BILL NO. 1494

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

6314S.011

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 610, RSMo, by adding thereto three new sections relating to automatic expungement.

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

Section A. Chapter 610, RSMo, is amended by adding thereto
2 three new sections, to be known as sections 610.141, 610.143,
3 and 610.144, to read as follows:

610.141. 1. As used in this section, section 610.140,
2 and sections 610.143 and 610.144, unless the context
3 otherwise indicates, the following terms mean:

4 (1) "Automatic expungement", technology-assisted,
5 state-initiated bulk closing of records in the manner
6 established under section 610.120;

7 (2) "Central repository", the Missouri state highway
8 patrol central repository for compiling and disseminating
9 complete and accurate criminal history records;

10 (3) "Clean slate eligible offense", a misdemeanor or
11 felony not listed under subsection 3 of section 610.140 for
12 which an electronic record exists in the statewide court
13 automation case management system;

14 (4) "Close" or "closed", to make records inaccessible
15 to the general public and to all individuals other than the
16 defendant, except as provided under section 610.120 and
17 chapter 43;

18 (5) "Expunge" or "expunged", to close a record in the
19 manner established under section 610.120, except the
20 provisions of subsection 2 of section 610.120 that require
21 documents to be retyped and rewritten, or blacked out and
22 recopied, if an agency determines that these provisions are
23 not feasible in relation to automatic expungement;

24 (6) "Final disposition", the date the person has
25 completed his or her incarceration, probation, or parole;

26 (7) "Petitioner", a person who has petitioned the
27 court to have his or her conviction or convictions expunged
28 or a person whose conviction or convictions have been
29 automatically expunged under this section;

30 (8) "Prosecuting agency", the prosecuting attorney,
31 circuit attorney, or municipal prosecuting attorney.

32 2. (1) Subject to the provisions in subdivision (2)
33 of subsection 3 of this section, all electronic records and
34 files maintained in the statewide court automation case
35 management system pertaining to clean slate eligible
36 offenses shall be closed in the manner established under
37 section 610.120 without the filing of a petition under
38 section 610.140 in the following cases, subject to the
39 limitations contained in subdivisions (2), (3), and (4) of
40 this subsection:

41 (a) For cases in which the imposition of sentence has
42 been suspended, if an individual has successfully completed
43 probation, so long as one year has passed since final
44 disposition and the individual has not committed any felony
45 or misdemeanor criminal offense in Missouri during that time;

46 (b) For misdemeanors, if one year has passed since
47 final disposition and the individual has not committed any
48 felony or misdemeanor criminal offense in Missouri during
49 that time;

50 (c) For felony offenses, if three years have passed
51 since final disposition and the individual has not committed
52 any felony or misdemeanor criminal offense in Missouri
53 during that time;

54 (d) For all of an individual's offenses, if the
55 individual has attained sixty-five years of age and has not
56 been convicted of any misdemeanors or felonies in Missouri
57 other than a technical violation of the terms of his or her
58 probation or parole in the ten immediately preceding years;
59 or

60 (e) All offenses for which the governor of Missouri
61 has granted a full pardon.

62 (2) Records pertaining to juvenile adjudications or
63 offenses involving the operation of a motor vehicle are not
64 eligible for automatic expungement.

65 (3) No offense shall be eligible for automatic
66 expungement if a person has charges pending that have been
67 filed in a Missouri state court for which an individual has
68 not yet been sentenced during the period of review for clean
69 slate eligibility as described in subsection 3 of this
70 section.

71 (4) (a) An individual may be granted more than one
72 expungement under this section, except that during his or
73 her lifetime the total number of offenses for which
74 expungement can be granted to the individual under this
75 section or section 610.140 shall not exceed the following
76 limits:

77 a. No more than two felony offenses; and

78 b. No more than three misdemeanor offenses.

79 (b) If an individual's electronic record contains more
80 felonies or misdemeanors than can be expunged during the
81 individual's lifetime under paragraph (a) of this

subdivision, the individual shall not be eligible for automatic expungement under this section.

(c) For purposes of determining lifetime limits on expungement under this section and section 610.140:

a. If the offenses were charged as counts in the same case, all such offenses and violations shall count as only the highest-level offense in that case for purposes of determining lifetime limits on expungement under this section and section 610.140. However, if one or more counts in the same indictment or information or conduct committed were a part of the same course of criminal conduct as an offense listed in subsection 3 of section 610.140, the entire record shall not be expunged under this section;

b. If the offenses were committed by an individual who has attained sixty-five years of age and has not been convicted of any misdemeanors or felonies in the immediate ten preceding years in Missouri, all clean slate eligible offenses shall be expunged; and

c. Only convictions contained within the statewide court automation case management system shall be considered when determining eligibility under this section.

(d) The court shall maintain records to ensure that a person has not exceeded the limitations provided under this subsection. Nothing in this section shall be construed to limit or impair the subsequent use of any record maintained by the court for the purpose of any law enforcement or prosecutorial investigation or activity, including any arrest or findings of guilt expunged under this section by a law enforcement agency, criminal justice agency, prosecuting attorney, circuit attorney, or municipal prosecuting attorney, including its use as a prior offense in a subsequent criminal or civil investigation or prosecution.

114 3. (1) Beginning August 28, 2029, on a quarterly
115 basis, the office of state courts administrator shall
116 identify records that have become eligible in the last
117 quarter and transmit, or otherwise make accessible by
118 electronic means, to the central repository and every
119 prosecuting agency in the state all clean slate eligible
120 offense records within one hundred days of the record
121 becoming eligible for automatic expungement.

122 (2) All electronic records in the statewide court
123 automation case management system that become eligible for
124 automatic expungement on or after August 28, 2026, but
125 before August 29, 2029, shall be identified and expunged
126 before August 28, 2031, in a cadence to be determined by the
127 office of state courts administrator.

128 (3) Delinquent court costs, fines, fees, or other sums
129 ordered by a court, except restitution owed to a victim of a
130 crime, shall not be considered by the office of state courts
131 administrator when determining eligibility of a record for
132 automatic expungement under subsection 2 of this section.
133 However, the office of state courts administrator shall seek
134 a setoff of any income tax refund and lottery prize payouts
135 under section 488.5028 for all delinquent court costs,
136 fines, fees, or other sums ordered by a court relating to
137 convictions expunged under subsection 2 of this section.

138 (4) Each prosecuting agency in this state has no more
139 than sixty days from the day on which the notice described
140 in subdivision (1) of this subsection is transmitted, or
141 otherwise made accessible by electronic means, to object to
142 an automatic expungement and transmit such objection to the
143 office of state courts administrator and the central
144 repository. The prosecuting agency shall object to the
145 automatic expungement for any of the following reasons:

146 (a) After reviewing the prosecuting agency's record,
147 the record does not meet the definition of a clean slate
148 eligible offense;

149 (b) The person has not paid court-ordered restitution
150 to the victim; or

151 (c) The person has charges pending against the person
152 in another case in Missouri.

153 (5) If a prosecuting agency objects for a reason
154 described in subdivision (4) of this subsection, within
155 sixty days of the day on which the notice described in
156 subdivision (1) of this subsection is transmitted, or
157 otherwise made accessible by electronic means, the record
158 shall not be expunged.

159 (6) The central repository has no more than sixty days
160 from the day on which the notice described in subdivision
161 (1) of this subsection is transmitted, or otherwise made
162 accessible by electronic means, to object to an automatic
163 expungement and transmit such objection to the office of
164 state courts administrator and the relevant prosecutors.
165 The central repository shall object to the automatic
166 expungement if the record does not meet the definition of a
167 clean slate eligible offense based on their available data.

168 (7) If the central repository objects for a reason
169 described in subdivision (6) of this subsection, within
170 sixty days of the day on which the notice described in
171 subdivision (1) of this subsection is transmitted, or
172 otherwise made accessible by electronic means, the record
173 shall not be expunged.

174 (8) If sixty days have passed without an objection
175 from a prosecuting agency or the central repository for one
176 of the reasons set forth under this subsection, the office
177 of state courts administrator shall transmit, or otherwise

178 make accessible by electronic means, within fifteen days all
179 the records to be expunged, sorted by circuit, to the
180 presiding judges of every circuit court in Missouri.

181 (9) Within thirty days of receiving a notice to
182 expunge, the circuit court shall issue orders for
183 expungement of all records maintained in the circuit.

184 (10) On a quarterly basis, each circuit court shall
185 transmit, or otherwise make accessible by electronic means,
186 copies of all orders for expungement that the court issues
187 under this section to the office of state courts
188 administrator.

189 (11) Once the transmitted records are expunged, the
190 office of state courts administrator shall provide notice to
191 all state agencies maintaining official copies of the
192 records including, but not limited to, circuit court clerks,
193 prosecuting or circuit attorneys, law enforcement agencies,
194 the department of corrections, and the central repository
195 within thirty days. The records and files maintained by any
196 such persons or entities pertaining to expunged records
197 shall be held confidential from the date of expungement and
198 only made available to the people and for the purposes
199 outlined in subdivision (12) of this subsection. With
200 respect to any person including, but not limited to, a
201 consumer reporting agency or researcher, who purchases
202 records for information pertaining to criminal matters of
203 public record from the office of state courts administrator,
204 such office shall make available to the person information
205 concerning the criminal matters of public record that have
206 been expunged under this section. Such information shall
207 include docket numbers or other information sufficient to
208 permit the person to accurately identify and delete records
209 that have been expunged under this section.

(12) (a) The Missouri state highway patrol shall retain a nonpublic record of the order expunging a conviction or other notification regarding a conviction that was automatically expunged under this section and of the record of the arrest, fingerprints, conviction, and sentence of the person in the case to which the order or other notification applies. The nonpublic record shall be made available only to a court of competent jurisdiction, the department of corrections, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the following purposes:

a. To show that a person who has filed a petition to expunge a conviction has previously had a conviction expunged under this section;

b. The court's consideration in determining the sentence to be imposed upon conviction for a subsequent offense that is punishable as a felony or by imprisonment for more than one year;

c. Consideration by the governor if a person whose conviction has been expunged applies for a pardon for another offense;

d. Consideration by the department of corrections or a law enforcement agency if a person whose conviction has been expunged applies for employment with the department of corrections or a law enforcement agency;

e. Consideration by a court, law enforcement agency, prosecuting attorney, or the attorney general in determining whether a person required to register under sections 589.400 to 589.425 has committed an offense that requires registration under sections 589.400 to 589.425, or in prosecuting a person for committing an offense requiring registration under sections 589.400 to 589.425;

242 f. Consideration by a court, law enforcement agency,
243 prosecuting attorney, or the attorney general for use in
244 making determinations regarding charges, plea offers, and
245 sentencing, as applicable; or

246 g. Consideration by any entity responsible for issuing
247 commercial driver's licenses for the purpose of meeting
248 state and federal requirements to obtain commercial driver's
249 licenses.

250 (b) A copy of the nonpublic record created under
251 paragraph (a) of this subdivision may be provided upon
252 request to the person whose conviction is expunged under
253 this section upon payment of a fee determined and charged by
254 the Missouri state highway patrol.

255 (c) The nonpublic record maintained under paragraph
256 (a) of this subdivision is exempt from disclosure under this
257 chapter.

258 (d) An entity shall not be liable for damages or
259 subject to criminal penalties for reporting a public record
260 of conviction that has been expunged by court order or
261 operation of law prior to August 28, 2029, if that record
262 was available as a public record on the date of the report.

263 4. Any court sentencing an individual for a clean
264 slate eligible offense shall provide the individual a
265 document outlining the state's clean slate expungement
266 program at the time of sentencing.

267 5. Any probation or parole office releasing an
268 individual from supervision for a clean slate eligible
269 offense shall provide the individual a document outlining
270 the state's clean slate expungement program at the time of
271 release.

272 6. The provisions of this section shall apply
273 retroactively to any arrest, charge, trial, or conviction

274 for which there is an electronic record regardless of the
275 date that the arrest was made, the charge or charges were
276 brought, the trial occurred, or the conviction was entered.

277 7. Nothing in this section precludes an individual
278 from filing a petition for expungement of records under
279 section 610.140 if an individual is eligible for automatic
280 expungement under this section but such automatic
281 expungement has not yet occurred or cannot occur.

282 8. If it is determined that a conviction was
283 improperly or erroneously expunged under this section
284 because the conviction was not eligible to be expunged under
285 this section, the court shall, on its own motion, reinstate
286 the conviction.

287 9. (1) Upon the entry of an order under section
288 610.140, or upon the automatic expungement of a conviction
289 under this section, the petitioner is considered not to have
290 been previously convicted, except as provided under this
291 subsection and subsection 10 of section 610.140.

292 (2) The petitioner shall not be entitled to the
293 remission of any fine, costs, or other moneys paid as a
294 consequence of a conviction that is expunged.

295 (3) This section shall not affect the right of the
296 petitioner to rely upon the conviction to bar subsequent
297 proceedings for the same offense.

298 (4) This section shall not affect the right of a
299 victim of an offense to bring or defend a civil action for
300 damages.

301 (5) This section shall not create a right to commence
302 an action for damages for incarceration under the sentence
303 that the petitioner served before the conviction is expunged
304 under this section.

(6) This section shall not relieve any obligation to pay restitution owed to the victim of an offense nor shall such section affect the jurisdiction of the court or the authority of any court order with regard to enforcing an order for restitution.

(7) A conviction, including any records relating to the conviction and any records concerning a collateral action, that has been expunged under this section shall not be used as evidence in an action for negligent hiring, admission, or licensure against any person.

(8) A conviction that is expunged under this section or section 610.140 may be considered a prior conviction by a court, law enforcement agency, prosecuting attorney, or the attorney general, as applicable, for purposes of charging a crime as a second or subsequent offense or for sentencing under section 558.016.

10. The office of state courts administrator shall collaborate with the Missouri state highway patrol to establish and implement data-sharing procedures regarding the information required under this section.

11. Any person eligible for expungement under this section who has filed a petition for expungement under section 610.140 shall be granted an expungement, subject to subsection 3 of this section.

12. The provisions of this section shall become effective upon the office of state courts administrator's implementation of automatic expungement technology as described in section 610.144.

610.143. 1. A credit bureau shall report records of arrests, indictments pending trial, and convictions of crimes for no longer than seven years from final disposition. Records of arrests, indictments pending trial,

5 and convictions of crimes shall no longer be reported if at
6 any time after a conviction it is learned that a full pardon
7 or expungement has been granted for that conviction, or at
8 any time after an arrest or indictment it is learned that a
9 conviction did not result.

10 2. Any credit bureau or user of information that
11 willfully fails to comply with any requirement of this
12 section with respect to any consumer is liable to that
13 consumer in an amount equal to:

14 (1) Any actual damages sustained by the consumer as a
15 result of the failure;

16 (2) Punitive damages as the court may allow; and

17 (3) In the case of any successful action under this
18 section, costs of the action and reasonable attorney's fees
19 as determined by the court.

20 3. Any credit bureau or user of information that is
21 negligent in failing to comply with any requirement of this
22 section with respect to any consumer is liable to that
23 consumer in an amount equal to:

24 (1) Any actual damages sustained by the consumer as a
25 result of the failure; and

26 (2) In the case of any successful action under this
27 section, costs of the action and reasonable attorney's fees
28 as determined by the court.

29 4. Injunctive relief shall be available to any
30 consumer aggrieved by a violation or a threatened violation
31 of this section regardless of whether the consumer seeks any
32 other remedy under this section.

33 5. An employer, volunteer organization, or landlord
34 who employs, qualifies, or otherwise engages an individual
35 whose criminal history record has been expunged shall be
36 immune from liability for any claim arising out of the

37 misconduct of the individual if the misconduct relates to
38 the portion of the criminal history record that has been
39 expunged.

40 6. A person granted an expungement shall disclose any
41 expunged offense if the disclosure of such information is
42 necessary to complete any application for employment with
43 any:

44 (1) Federally insured bank or savings institution or
45 credit union or an affiliate of such institution or credit
46 union for the purpose of compliance with 12 U.S.C. Section
47 1829 and 12 U.S.C. Section 1785; or

48 (2) Entity engaged in the business of insurance or any
49 insurer for the purpose of complying with 18 U.S.C. Section
50 1033, 18 U.S.C. Section 1034, or other similar law that
51 requires an employer engaged in the business of insurance to
52 exclude applicants with certain criminal convictions from
53 employment.

54 7. The provisions of this section shall become
55 effective upon the office of state courts administrator's
56 implementation of automatic expungement technology as
57 described in section 610.144.

610.144. 1. (1) There is hereby created in the state
2 treasury the "Missouri Expungement Fund", which shall
3 consist of moneys deposited into the fund from any source
4 including, but not limited to, gifts, donations, grants, and
5 bequests. The state treasurer shall be custodian of the
6 fund. In accordance with sections 30.170 and 30.180, the
7 state treasurer may approve disbursements. The fund shall
8 be a dedicated fund and, upon appropriation, moneys in this
9 fund shall be used solely as provided in subsection 2 of
10 this section.

11 (2) The state treasurer shall invest moneys in the
12 fund in the same manner as other funds are invested. Any
13 interest and moneys earned on such investments shall be
14 credited to the fund.

15 2. The office of state courts administrator, the
16 department of public safety, and the information technology
17 services division within the office of administration shall
18 expend moneys from the fund, upon appropriation, on the
19 statewide court automation case management system and the
20 Missouri criminal history record information system
21 established under sections 43.500 to 43.530 for one or more
22 of the following purposes:

23 (1) Expenses that may be incurred to develop,
24 establish, maintain, or operate any information technology
25 equipment, software, systems, or services associated with
26 the expungement or closing of records under Missouri law,
27 including the development and implementation of any
28 technology-assisted, state-initiated bulk expungement or
29 sealing of records under Missouri law; or

30 (2) The cost of necessary personnel or contractors.

31 The office of state courts administrator, the department of
32 public safety, and the information technology services
33 division within the office of administration shall each
34 receive one-third of any total amount appropriated from the
35 fund for a fiscal year.

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