

SECOND REGULAR SESSION

# SENATE BILL NO. 854

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR WILLIAMS.

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KRISTINA MARTIN, Secretary

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### AN ACT

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

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*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 four new sections, to be known as sections 610.141, 610.142,  
3 610.143, and 610.144, to read as follows:

610.141. 1. **As used in sections 610.140 to 610.146,**

2 **the following terms mean:**

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

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

9 (3) **"Charges pending", charges for which an individual**  
10 **has not yet been sentenced;**

11 (4) **"Clean slate eligible offense", an infraction,**  
12 **misdemeanor, or felony not listed under subsection 2 of**  
13 **section 610.140 for which an electronic record exists;**

14 (5) **"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 (6) "Expunge" or "expunged", to close a record in the  
19 manner established under section 610.120;

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

29 (9) "Traffic violation", a violation of the traffic  
30 regulations provided under chapters 301, 302, 303, 304, and  
31 307.

32           2. (1) Beginning August 28, 2029, all records and  
33 files maintained in any administrative or court proceeding  
34 in a municipal, associate, or circuit court pertaining to  
35 clean slate eligible offenses shall be closed in the manner  
36 established under section 610.120 without the filing of a  
37 petition under section 610.140, subject to the limitations  
38 contained in subdivisions (2), (3), and (4) of this  
39 subsection and subject to the following:

46 (b) For infractions, municipal offenses, and  
47 misdemeanors, the record shall be closed if one year has  
48 passed since final disposition and the individual has not

49 committed any felony or misdemeanor offense other than a  
50 traffic violation during that time;

51 (c) For felony offenses, the record shall be closed if  
52 three years have passed since final disposition and the  
53 individual has not committed any felony or misdemeanor  
54 offense other than a traffic violation during that time;

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

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

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

66 (3) No offense, violation, or infraction shall be  
67 eligible for automated expungement if a person has charges  
68 pending during the period of review for clean slate  
69 eligibility as described in subsection 3 of this section.

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

76 a. No more than two felony offenses; and  
77 b. No more than four misdemeanor offenses or ordinance  
78 violations that have an authorized term of imprisonment.

79 (b) An individual may be granted expungement under  
80 this section for any number of infractions.

81 (c) If an individual's record contains more felonies  
82 or misdemeanors than can be expunged during the individual's  
83 lifetime under paragraph (a) of this subdivision, the  
84 individual shall not be eligible for automated expungement  
85 under this section.

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

88           a. If the offenses or violations were charged as  
89 counts in the same case, all such offenses and violations  
90 shall count as only the highest level offense or violation  
91 in that case for purposes of determining lifetime limits on  
92 expungement under this section and section 610.140.  
93 However, if one or more counts in the same indictment or  
94 information or conduct committed were a part of the same  
95 course of criminal conduct as an offense listed in  
96 subsection 2 of section 610.140, the entire record shall not  
97 be expunged under this section.

98           b. If the offenses or violations were committed by an  
99 individual who has reached sixty-five years of age and has  
100 not been convicted of any misdemeanors or felonies other  
101 than traffic violations in the immediate ten preceding  
102 years, all clean slate eligible offenses shall be expunged.

113 or infraction in a subsequent criminal or civil  
114 investigation or prosecution.

115 3. (1) Beginning August 28, 2029, on a monthly basis,  
116 the office of state courts administrator shall identify and  
117 transmit to the central repository and every prosecuting  
118 agency in the state all clean slate eligible offense records  
119 within thirty days of the record becoming eligible for  
120 automated expungement.

121 (2) Records that are eligible for automated  
122 expungement on or before August 28, 2026, shall be  
123 identified and expunged by August 28, 2031.

124 (3) Delinquent court costs, fines, fees, or other sums  
125 ordered by a court, except restitution owed to a victim of a  
126 crime, shall not be expunged and shall not be considered by  
127 the office of state courts administrator when determining  
128 expungement of a record without the filing of a petition  
129 under subsection 2 of this section. The office of state  
130 courts administrator shall seek a setoff of any income tax  
131 refund and lottery prize payouts under section 488.5028 for  
132 all delinquent court costs, fines, fees, or other sums  
133 ordered by a court relating to convictions expunged under  
134 subsection 2 of this section.

135 (4) Each prosecuting agency in this state has no later  
136 than sixty days from the day on which the notice described  
137 in subdivision (1) of this subsection is transmitted to  
138 object to an automated expungement and transmit such  
139 objection to all parties. The prosecuting agency may object  
140 to the automatic expungement for any of the following  
141 reasons:

142 (a) After reviewing the prosecuting agency's record,  
143 the agency believes the record does not meet the definition  
144 of a clean slate eligible case;

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

(c) The person has charges pending against them in another case.

(5) If a prosecuting agency objects for a reason described in subdivision (4) of this subsection, within sixty days of the day on which the notice described in subdivision (1) of this subsection is transmitted, the record shall not be expunged.

(6) If sixty days have passed without an objection from a prosecuting agency or the central repository for one of the reasons set forth under this subsection, the office of state courts administrator shall transmit within fifteen days all the records to be expunged, sorted by circuit, to the presiding judges of every circuit court.

(7) (a) Within thirty days of receiving a notice to expunge, the circuit court shall issue orders for expungement of all records maintained in the circuit for which no notification of ineligibility was received by the office of state courts administrator from the central repository or a prosecuting agency unless the circuit court determines the record is not eligible for automated expungement.

(b) If the circuit court determines a record is not eligible for automated expungement, the court shall notify the office of state courts administrator in writing of its determination within thirty days and shall specify the reasons the court relied upon in making the determination.

(8) On a monthly basis, each circuit court shall issue orders for expungement of all records of arrest, charge, and conviction for ordinance violations and nonfingerprintable

176 offenses in the circuit that the court determines are  
177 eligible for automated expungement.

178 (9) On a monthly basis, each circuit court shall  
179 transmit copies of all orders for expungement that the court  
180 issues under this section to the office of state courts  
181 administrator.

182 (10) Once the transmitted records are expunged, the  
183 office of state courts administrator shall provide notice to  
184 all state agencies maintaining official copies of the  
185 records including, but not limited to, the appropriate  
186 circuit court clerk, the prosecuting or circuit attorney,  
187 the arresting law enforcement agency or agencies, the  
188 department of corrections, the central repository, and the  
189 department of revenue to expunge the records within thirty  
190 days.

191 (11) The Missouri state highway patrol shall retain a  
192 nonpublic record of the order expunging a conviction or  
193 other notification regarding a conviction that was  
194 automatically expunged under this section and of the record  
195 of the arrest, fingerprints, conviction, and sentence of the  
196 person in the case to which the order or other notification  
197 applies. The nonpublic record shall be made available only  
198 to a court of competent jurisdiction, the office of state  
199 courts administrator, the department of corrections, a law  
200 enforcement agency, a prosecuting or circuit attorney, the  
201 attorney general, or the governor upon request and only for  
202 the following purposes:

203 (a) To show that a person who has filed a petition to  
204 expunge a conviction has previously had a conviction  
205 expunged under this section;

206 (b) The court's consideration in determining the  
207 sentence to be imposed upon conviction for a subsequent

208 offense that is punishable as a felony or by imprisonment  
209 for more than one year;

210 (c) Consideration by the governor if a person whose  
211 conviction has been expunged applies for a pardon for  
212 another offense;

213 (d) Consideration by the department of corrections or  
214 a law enforcement agency if a person whose conviction has  
215 been expunged applies for employment with the department of  
216 corrections or a law enforcement agency;

217 (e) Consideration by a court, law enforcement agency,  
218 prosecuting or circuit attorney, or the attorney general in  
219 determining whether a person required to register under  
220 sections 589.400 to 589.425 has committed an offense that  
221 requires registration under sections 589.400 to 589.425, or  
222 for use in a prosecution for committing an offense requiring  
223 registration under sections 589.400 to 589.425; or

224 (f) Consideration by a court, law enforcement agency,  
225 prosecuting or circuit attorney, or the attorney general for  
226 use in making determinations regarding charges, plea offers,  
227 and sentencing, as applicable.

228 (12) The office of state courts administrator shall  
229 create a digital access portal of all orders of expungement  
230 issued under this section. The portal shall allow users to  
231 determine if an order for automated expungement has been  
232 granted in an individual's name. The portal shall employ  
233 measures to prevent disclosure of any order to anyone other  
234 than the individual for whom the order was issued.

235 4. Any court sentencing an individual for a clean  
236 slate eligible offense shall notify the individual at the  
237 time of sentencing of the date when the individual's  
238 conviction may become eligible for automated expungement  
239 provided the individual is not convicted of any misdemeanor

240 or felony, not including a violation of a traffic  
241 regulation, during the time period specified for the  
242 underlying offense or offenses.

243 5. Any probation or parole office releasing an  
244 individual from supervision for a clean slate eligible  
245 offense shall notify the individual at the time supervision  
246 is discharged of the date when the individual's record or  
247 records may become eligible for automated expungement  
248 provided the individual is not convicted of any misdemeanor  
249 or felony, not including a violation of a traffic  
250 regulation, during the time period specified for the  
251 underlying offense or offenses.

252 6. The provisions of this section shall apply  
253 retroactively to any arrest, charge, trial, and conviction  
254 for which there is a digital record regardless of the date  
255 that the arrest was made, the charge or charges were  
256 brought, the trial occurred, or the conviction was entered.

257 7. Nothing in this section precludes an individual  
258 from filing a petition for expungement of records under  
259 section 610.140 if an individual is eligible for an  
260 automated expungement under this section if such an  
261 automated expungement has not yet occurred or cannot occur  
262 pursuant to the provisions of this section.

263 8. Upon the occurrence of one of the circumstances  
264 provided under subdivision (1) or (2) of this subsection, a  
265 conviction that was expunged under this section shall be  
266 reinstated by the court as provided in this subsection.

267 (1) If it is determined that a conviction was  
268 improperly or erroneously expunged because the conviction  
269 was not eligible to be expunged under this section, the  
270 court shall, on its own motion, reinstate the conviction.

277           9. Upon the entry of an order under section 610.140,  
278       or upon the automated expungement of a conviction under this  
279       section, the petitioner, for purposes of the law, shall be  
280       considered not to have been previously convicted, except for  
281       purposes of the following:

282 (1) The petitioner shall not be entitled to the  
283 remission of any fine, costs, or other moneys paid as a  
284 consequence of a conviction that is expunged;

285 (2) This section shall not affect the right of the  
286 petitioner to rely upon the conviction to bar subsequent  
287 proceedings for the same offense;

288 (3) This section shall not affect the right of a  
289 victim of an offense to bring or defend a civil action for  
290 damages;

291 (4) This section shall not create a right to commence  
292 an action for damages for incarceration under the sentence  
293 that the petitioner served before the conviction is expunged  
294 under this section;

295 (5) This section shall not relieve any obligation to  
296 pay restitution owed to the victim of an offense nor shall  
297 such sections affect the jurisdiction of the convicting  
298 court or the authority of any court order with regard to  
299 enforcing an order for restitution;

300 (6) A conviction, including any records relating to  
301 the conviction and any records concerning a collateral  
302 action, that has been expunged under this section shall not

303 be used as evidence in an action for negligent hiring,  
304 admission, or licensure against any person; or

305 (7) A conviction that is expunged under this section  
306 or section 610.140 may be considered a prior conviction by a  
307 court, law enforcement agency, prosecuting attorney, or the  
308 attorney general, as applicable, for purposes of charging a  
309 crime as a second or subsequent offense or for sentencing  
310 under section 550.016.

610.142. Beginning August 28, 2029, the office of  
2 state courts administrator shall report to the judiciary  
3 committees of the senate and house of representatives, or  
4 any successor committees, the following on a yearly basis:

5 (1) The number of records expunged under subsection 2  
6 of section 610.141, by judicial circuit, with data  
7 aggregated by race, sex, age, circuit, county, and offense  
8 type and level; and

9 (2) The number of records transmitted back to the  
10 office of state courts administrator from the Missouri state  
11 highway patrol, any prosecuting agency, or any circuit court  
12 on objection that the record is not eligible for automated  
13 expungement or that the record does not match data held in  
14 the central repository, by judicial circuit, with data  
15 aggregated by race, sex, age, county, and offense type and  
16 level.

610.143. 1. A credit bureau may report records of  
2 arrests, indictments pending trial, and convictions of  
3 crimes for no longer than seven years from final  
4 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 who employs or otherwise engages an  
34 individual whose criminal history record has been expunged  
35 shall be immune from liability for any claim arising out of  
36 the misconduct of the individual if the misconduct relates  
37 to the portion of the criminal history record that has been  
38 expunged.

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) Notwithstanding the provisions of section 33.080  
12 to the contrary, any moneys remaining in the fund at the end  
13 of the biennium shall not revert to the credit of the  
14 general revenue fund.

15 (3) The state treasurer shall invest moneys in the  
16 fund in the same manner as other funds are invested. Any  
17 interest and moneys earned on such investments shall be  
18 credited to the fund.

19 2. The department of public safety, the information  
20 technology services division within the office of  
21 administration, and the office of state courts administrator  
22 shall expend moneys from the fund, upon appropriation, only  
23 for one or more of the following purposes:

24 (1) Implementation costs incurred under sections  
25 610.141 to 610.143;

26 (2) System upgrades necessitated under sections  
27 610.141 to 610.143; or

28 (3) Staffing needs necessitated under sections 610.141  
29 to 610.143.

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