

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 362

93RD GENERAL ASSEMBLY

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Reported from the Committee on Judiciary March 9, 2005 with recommendation that House Committee Substitute for House Bill No. 362 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

Reported from the Committee on Rules March 14, 2005 with recommendation that House Committee Substitute for House Bill No. 362 Do Pass by Consent with no time limit for debate.

Perfectured by Consent March 29, 2005.

STEPHEN S. DAVIS, Chief Clerk

1070L.02P

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## AN ACT

To repeal sections 610.123, RSMo, and section 577.054 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session and section 577.054 as enacted by house bill no. 3, eighty-fifth general assembly, first extraordinary session, and to enact in lieu thereof two 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. Sections 610.123, RSMo, and section 577.054 as enacted by house substitute  
2 for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043,  
3 ninety-second general assembly, second regular session and section 577.054 as enacted by house  
4 bill no. 3, eighty-fifth general assembly, first extraordinary session, are repealed and two new  
5 sections enacted in lieu thereof, to be known as sections 577.054 and 610.123, to read as follows:

577.054. 1. After a period of not less than ten years, an individual who has pleaded  
2 guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor  
3 or a county or city ordinance violation and which is not a conviction for driving a commercial  
4 motor vehicle while under the influence of alcohol and who since such date has not been  
5 convicted of any other alcohol-related driving offense may apply to the court in which he or she

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 pled guilty or was sentenced for an order to expunge from all official records all recordations of  
7 his or her arrest, plea, trial or conviction. If the court determines, after hearing, that such person  
8 has not been convicted of any alcohol-related driving offense in the ten years prior to the date  
9 of the application for expungement, and has no other alcohol-related enforcement contacts as  
10 defined in section 302.525, RSMo, during that ten-year period, the court shall enter an order of  
11 expungement. **The records and files maintained in any administrative, associate circuit  
12 court, or circuit court proceeding pursuant to this section shall be confidential and only  
13 available to the parties or by order of the court for good cause shown.** The effect of such  
14 order shall be to restore such person to the status he or she occupied prior to such arrest, plea or  
15 conviction and as if such event had never taken place. No person as to whom such order has  
16 been entered shall be held thereafter under any provision of any law to be guilty of perjury or  
17 otherwise giving a false statement by reason of his or her failure to recite or acknowledge such  
18 arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for  
19 any purpose whatsoever and no such inquiry shall be made for information relating to an  
20 expungement under this section. A person shall only be entitled to one expungement pursuant  
21 to this section. Nothing contained in this section shall prevent the director from maintaining  
22 such records as to ensure that an individual receives only one expungement pursuant to this  
23 section for the purpose of informing the proper authorities of the contents of any record  
24 maintained pursuant to this section.

25 2. The provisions of this section shall not apply to any individual who has been issued  
26 a commercial driver's license or is required to possess a commercial driver's license issued by  
27 this state or any other state.

2 [577.054. After a period of not less than ten years, an individual who has  
3 pleaded guilty or has been convicted for a first alcohol-related driving offense  
4 which is a misdemeanor or a county or city ordinance violation and which is not  
5 a conviction for driving a commercial motor vehicle while under the influence  
6 of alcohol and who since such date has not been convicted of any other  
7 alcohol-related driving offense may apply to the court in which he pled guilty or  
8 was sentenced for an order to expunge from all official records all recordations  
9 of his arrest, plea, trial or conviction. If the court determines, after hearing, that  
10 such person has not been convicted of any alcohol-related driving offense in the  
11 ten years prior to the date of the application for expungement, and has no other  
12 alcohol-related enforcement contacts as defined in section 302.525, RSMo,  
13 during that ten-year period, the court shall enter an order of expungement. The  
14 effect of such order shall be to restore such person to the status he occupied prior  
15 to such arrest, plea or conviction and as if such event had never taken place. No  
16 person as to whom such order has been entered shall be held thereafter under any  
provision of any law to be guilty of perjury or otherwise giving a false statement

17 by reason of his failure to recite or acknowledge such arrest, plea, trial,  
18 conviction or expungement in response to any inquiry made of him for any  
19 purpose whatsoever and no such inquiry shall be made for information relating  
20 to an expungement under this section. A person shall only be entitled to one  
21 expungement pursuant to this section. Nothing contained in this section shall  
22 prevent the director from maintaining such records as to ensure that an individual  
23 receives only one expungement pursuant to this section for the purpose of  
24 informing the proper authorities of the contents of any record maintained  
25 pursuant to this section.]

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant to  
2 section 610.122 may file a verified petition for expungement in the civil division of the circuit  
3 court in the county of the arrest as provided in subsection 4 of this section. The petition shall  
4 include the following information or shall be dismissed if the information is not given:

- 5 (1) The petitioner's:
  - 6 (a) Full name;
  - 7 (b) Sex;
  - 8 (c) Race;
  - 9 (d) Date of birth;
  - 10 (e) Driver's license number;
  - 11 (f) Social Security number; and
  - 12 (g) Address at the time of the arrest;
- 13 (2) The offense charged against the petitioner;
- 14 (3) The date the petitioner was arrested;
- 15 (4) The name of the county where the petitioner was arrested and if the arrest occurred  
16 in a municipality, the name of the municipality;
- 17 (5) The name of the agency that arrested the petitioner;
- 18 (6) The case number and court of the offense;
- 19 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition  
20 to expunge a record that will be forwarded to the central repository for the sole purpose of  
21 positively identifying the petitioner.

22 2. The petition shall name as defendants all law enforcement agencies, courts,  
23 prosecuting attorneys, central state depositories of criminal records or others who the petitioner  
24 has reason to believe may possess the records subject to expungement. The court's order shall  
25 not affect any person or entity not named as a defendant in the action.

26 3. The court shall set a hearing on the matter no sooner than thirty days from the filing  
27 of the petition and shall give reasonable notice of the hearing to each official or agency or other  
28 entity named in the petition.

29 4. If the court finds that the petitioner is entitled to expungement of any record that is the

30 subject of the petition, it shall enter an order directing expungement. **The records and files**  
31 **maintained in any administrative, associate circuit court, or circuit court proceeding**  
32 **pursuant to this section shall be confidential and only available to the parties or by order**  
33 **of the court for good cause shown.** A copy of the order shall be provided to each agency  
34 identified in the petition pursuant to subsection 2 of this section.

35         5. The supreme court shall promulgate rules establishing procedures for the handling of  
36 cases filed pursuant to the provisions of this section and section 610.122. Such procedures shall  
37 be similar to the procedures established in chapter 482, RSMo, for the handling of small claims.