

SECOND REGULAR SESSION

# HOUSE BILL NO. 2031

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES NASHEED (Sponsor), HOSKINS, OXFORD, WALTON,  
TALBOY, BURNETT, VOGT, HUGHES, RUCKER, McGHEE, HUBBARD, EL-AMIN, JOHNSON,  
DOUGHERTY AND HAYWOOD (Co-sponsors).

Read 1st time February 6, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3767L.02I

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### AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to expungement of certain criminal records.

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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 one new section, to be  
2 known as section 610.135, to read as follows:

- 610.135. 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 he or she plead guilty  
3 or was found guilty of any of the offenses specified in subsection 2 of this section for an  
4 order to expunge from all official records all recordations of his or her arrest, plea, trial,  
5 or conviction. A person may apply to have one or more offenses expunged so long as such  
6 person lists all the offenses they are seeking to have expunged in the same petition and so  
7 long as all such offenses are eligible under subsection 2 of this section.
- 8 2. The following offenses are eligible to be expunged:
- 9 (1) Any violation of prostitution under section 567.020, RSMo;
- 10 (2) Any misdemeanor or felony violation of chapter 195, RSMo; and
- 11 (3) All municipal ordinance violations and misdemeanor offenses, with the
- 12 following exceptions:
- 13 (a) Driving while intoxicated under section 577.010, RSMo;

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.

- 14           (b) Driving with excessive blood alcohol content under section 577.012, RSMo;  
15           (c) Any misdemeanor violation of chapter 566, RSMo, or any other misdemeanor  
16 sexual offense;  
17           (d) Any violation of an order or protection issued under chapter 455, RSMo;  
18           (e) Any misdemeanor violation of section 568.050, RSMo;  
19           (f) Any misdemeanor violation of section 568.052, RSMo;  
20           (g) Any misdemeanor offense requiring registration under section 589.400, RSMo;  
21 and  
22           (h) Any municipal ordinance violation or misdemeanor offense committed by a  
23 holder of a commercial driver's license regardless of what type of vehicle the offense is  
24 committed in.
- 25           3. The court may order expungement under this section only when the following  
26 criteria is met for each of the offenses listed in the petition for expungement:
- 27           (1) At least five years has elapsed since the person making the application has  
28 completed:
- 29           (a) Their imprisonment, if sentenced to jail or prison;  
30           (b) Their period of probation, if placed on probation; or  
31           (c) Their parole, if placed on parole; and  
32           (2) The person has not been convicted of a misdemeanor or felony, or been placed  
33 on probation for a misdemeanor or felony during the five-year period specified in  
34 subdivision (1) of this subsection; and  
35           (3) The person has not had any other petition for expungement granted under the  
36 provisions of this section.
- 37           4. If the court determines, after hearing, that such person meets all the criteria set  
38 forth in subsection 3 of this section for each of the offenses listed in the petition for  
39 expungement the court shall enter an order of expungement. If the court determines that  
40 such person has not met the criteria for any of the offenses listed in the petition for  
41 expungement the court shall enter an order dismissing the petition. Any person whose  
42 petition for expungement has been dismissed by the court for failure to meet the criteria  
43 set forth in subsection 3 of this section may refile such petition as soon as all the criteria has  
44 been met for each of the offenses listed in the petition.
- 45           5. Upon granting of the order of expungement, the records and files maintained in  
46 any administrative or court proceeding in an associate circuit or circuit court division of  
47 the circuit court for any offense ordered expunged under this section shall be confidential  
48 and only available to the parties or by order of the court for good cause shown. The effect  
49 of such order shall be to restore such person to the status he or she occupied prior to such

50 arrests, pleas, trials, or convictions and as if such events had never taken place. No person  
51 as to whom such order has been entered shall be held thereafter under any provision of law  
52 to be guilty of perjury or otherwise giving a false statement by reason of his or her failure  
53 to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response  
54 to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall  
55 be made for information relating to an expungement under this section.

56       6. Any person who wishes to have a record of arrests, pleas, trials, or convictions  
57 expunged under the provisions of this section may file a verified petition for expungement  
58 in the civil division of the circuit court in any county where at least one of the arrests, pleas,  
59 trials, or convictions occurred as provided in subsection 1 of this section. The petition shall  
60 include the following information or shall be dismissed if the information is not given:

61       (1) The petitioner's:

62       (a) Full name;

63       (b) Sex;

64       (c) Race;

65       (d) Date of birth;

66       (e) Driver's license number;

67       (f) Social Security number; and

68       (g) Address at the time of the arrest for each offense listed in the petition;

69       (2) Each offense charged against the petitioner for which the petitioner is  
70 requesting expungement;

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

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

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

76       (6) The case number and court for each offense;

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

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

85           **8. The court shall set a hearing on the matter no sooner than thirty days from the**  
86 **filing of the petition and shall give reasonable notice of the hearing to each official agency**  
87 **or other entity named in the petition.**

88           **9. If the court finds that the petitioner is entitled to expungement it shall enter an**  
89 **order directing expungement. A copy of the order shall be provided to each agency**  
90 **identified in the petition under the provisions of subsection 7 of this section.**

91           **10. The supreme court shall promulgate rules establishing procedures for the**  
92 **handling of cases filed under the provisions of this section. Such procedures shall be**  
93 **similar to the procedures established in chapter 482, RSMo, for the handling of small**  
94 **claims.**

95           **11. Nothing contained in this section shall prevent the court from maintaining such**  
96 **records as to ensure that an individual has only one petition for expungement granted**  
97 **under this section.**

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