

FIRST REGULAR SESSION

HOUSE BILL NO. 238

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELLINGTON (Sponsor), MIMS, PIERSON, PACE, WEBB,
MCCANN BEATTY, RIZZO, ELLINGER, GARDNER, DUNN, BUTLER, MITTEN,
COLONA, CONWAY (10), WALTON GRAY, SMITH (85) AND MEREDITH (Co-sponsors).

0449L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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 610.142, to read as follows:

610.142. 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**
3 **guilty or was found guilty of any of the offenses specified in subsection 2 of this section for**
4 **an 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 he or she is seeking to have expunged in the same petition and**
7 **so 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) All nonviolent crimes;**

10 **(2) Any misdemeanor offense; and**

11 **(3) All nonviolent drug violations.**

12 **3. The court may order expungement under this section only when the following**
13 **criteria is met for each of the offenses listed in the petition for expungement:**

14 **(1) At least four years has elapsed since the person making the application has**
15 **completed:**

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.

- 16 (a) His or her imprisonment, if sentenced to jail or prison;
17 (b) His or her period of probation, if placed on probation; or
18 (c) His or her parole, if placed on parole; and
19 (2) The person has:
20 (a) Graduated from high school or has received a GED; and
21 (b) Graduated from an institution of higher education with at least an associate's
22 degree or maintains employment with the same employer for at least two consecutive years
23 prior to filing the petition for expungement;
24 (c) Completed seven hundred hours of community service; and
25 (d) Not been convicted of a misdemeanor or felony, or been placed on probation for
26 a misdemeanor or felony during the four-year period specified in subdivision (1) of this
27 subsection. For purposes of this paragraph, any moving traffic violations shall not be
28 considered.
- 29 4. If the court determines, after hearing, that such person meets all the criteria set
30 forth in subsection 3 of this section for each of the offenses listed in the petition for
31 expungement the court shall enter an order of expungement. If the court determines that
32 such person has not met the criteria for any of the offenses listed in the petition for
33 expungement the court shall enter an order dismissing the petition. Any person whose
34 petition for expungement has been dismissed by the court for failure to meet the criteria
35 set forth in subsection 3 of this section may refile such petition as soon as all the criteria has
36 been met for each of the offenses listed in the petition.
- 37 5. Upon granting of the order of expungement, the records and files maintained in
38 any administrative or court proceeding in an associate circuit or circuit court division of
39 the circuit court for any offense ordered expunged under this section shall be confidential
40 and only available to the parties or by order of the court for good cause shown. The effect
41 of such order shall be to restore such person to the status he or she occupied prior to such
42 arrests, pleas, trials, or convictions and as if such events had never taken place. No person
43 as to whom such order has been entered shall be held thereafter under any provision of law
44 to be guilty of perjury or otherwise giving a false statement by reason of his or her failure
45 to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response
46 to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall
47 be made for information relating to an expungement under this section.
- 48 6. Any person who wishes to have a record of arrests, pleas, trials, or convictions
49 expunged under the provisions of this section may file a verified petition for expungement
50 in the civil division of the circuit court in any county where at least one of the arrests, pleas,

51 trials, or convictions occurred as provided in subsection 1 of this section. The petition shall
52 include the following information or shall be dismissed if the information is not given:

53 (1) The petitioner's:

54 (a) Full name;

55 (b) Sex;

56 (c) Race;

57 (d) Date of birth;

58 (e) Driver's license number;

59 (f) Social Security number; and

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

61 (2) Each offense charged against the petitioner for which the petitioner is
62 requesting expungement;

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

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

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

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

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

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

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

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

83 10. The supreme court shall promulgate rules establishing procedures for the
84 handling of cases filed under the provisions of this section. Such procedures shall be
85 similar to the procedures established in chapter 482, for the handling of small claims.

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

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