

SECOND REGULAR SESSION

HOUSE BILL NO. 1382

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PETERS.

4137L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 211, RSMo, by adding thereto one new section relating to expungement of juvenile records.

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

Section A. Chapter 211, RSMo, is amended by adding thereto one new section, to be known as section 211.153, to read as follows:

- 211.153. 1. **Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was adjudicated delinquent for any offense under subdivision (3) of subsection 1 of section 211.031 for an order to expunge recordations of such arrest, detention, commitment to the division of youth services, or other disposition. A person may apply to have one or more offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition.**
2. **The petition shall name as defendants all law enforcement agencies, courts, juvenile officers, prosecuting or circuit attorneys, central state repositories of criminal records, or others who the petitioner has reason to believe may possess the records subject to expungement for each of the offenses listed in the petition. The court's order of expungement shall not affect any person or entity not named as a defendant in the action.**
3. **The petition shall be dismissed if it does not include the following information:**
- (1) **The petitioner's:**
 - (a) **Full name;**
 - (b) **Sex;**
 - (c) **Race;**

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.

- 18 (d) Driver's license number, if applicable; and
19 (e) Current address;
- 20 (2) Each offense charged against the petitioner for which the petitioner is
21 requesting expungement;
- 22 (3) The date the petitioner was arrested, detained, or taken into custody for each
23 offense;
- 24 (4) The name of the county where the petitioner was arrested, detained or taken
25 into custody for each offense and if any of the offenses occurred in a municipality, the
26 name of the municipality for each offense;
- 27 (5) The name of the agency that arrested, detained, or took the petitioner into
28 custody for each offense;
- 29 (6) The case number and name of the court for each offense; and
- 30 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a
31 petition for expungement which will be forwarded to the central repository for the sole
32 purpose of positively identifying the petitioner.
- 33 4. The court may set a hearing on the matter no sooner than thirty days from the
34 filing of the petition and shall give reasonable notice of the hearing to each entity named
35 in the petition. At the hearing, the court may accept evidence and hear testimony on, and
36 may consider, the following criteria for each of the offenses listed in the petition for
37 expungement:
- 38 (1) It has been at least five years if the offense is a felony, or at least two years if the
39 offense is a misdemeanor, municipal offense, or infraction, since the person making the
40 application completed:
- 41 (a) Any commitment to the division of youth services;
42 (b) Any period of detention; or
43 (c) Any period of probation;
- 44 (2) The person has not been found guilty of a misdemeanor or felony, not including
45 violations of the traffic regulations provided under chapters 304 and 307, during the time
46 period specified for the underlying offense in subdivision (1) of this subsection;
- 47 (3) The person has not been adjudicated for an offense which would be a
48 misdemeanor or felony offense if committed by an adult, not including violations of the
49 traffic regulations provided under chapters 304 and 307, during the time period specified
50 for the underlying offense in subdivision (1) of this subsection;
- 51 (4) The person has paid any amount of restitution ordered by the court;
- 52 (5) The circumstances and behavior of the petitioner warrant the expungement;
- 53 and

54 (6) The expungement is consistent with the public welfare.

55 5. If the court determines at the conclusion of the hearing that such person meets
56 all the criteria set forth in subsection 4 of this section for each of the offenses listed in the
57 petition for expungement, the court may enter an order of expungement. A copy of the
58 order shall be provided to each entity named in the petition, and, upon receipt of the order,
59 each entity shall destroy any record in its possession relating to any offense listed in the
60 petition. If destruction of the record is not feasible because of the permanent nature of the
61 record books, such record entries shall be blacked out. Entries of a record ordered
62 expunged shall be removed from all electronic files maintained with the state of Missouri,
63 except for the files of the juvenile office and the court. The records and files maintained
64 in any administrative or court proceeding in a municipal, associate, juvenile, family, or
65 circuit court for any offense ordered expunged under this section shall be confidential and
66 only available to the parties or by order of the court for good cause shown. The central
67 repository shall request the Federal Bureau of Investigation to expunge the records from
68 its files.

69 6. The order shall not limit any of the petitioner's rights that were restricted as a
70 collateral consequence of such person's juvenile record, and such rights shall be restored
71 upon issuance of the order of expungement. Except as otherwise provided under this
72 section, the effect of such order shall be to restore such person to the status he or she
73 occupied prior to such arrests, detentions, custodies, commitments, or other dispositions
74 as if such events had never taken place. No person as to whom such order has been entered
75 shall be held thereafter under any provision of law to be guilty of perjury or otherwise
76 giving a false statement by reason of his or her failure to recite or acknowledge such
77 arrests, detentions, custodies, commitments, or other dispositions, or expungement in
78 response to an inquiry made of him or her and no such inquiry shall be made for
79 information relating to an expungement, except the petitioner shall disclose the expunged
80 offense to any court when asked or upon being charged with any subsequent offense or
81 upon being adjudicated for any subsequent offense. The expunged offense may be
82 considered a prior offense in determining a sentence to be imposed for any subsequent
83 offense that the person is found guilty of committing.

84 7. Notwithstanding the provisions of subsection 6 of this section to the contrary, a
85 person granted an expungement shall disclose any expunged offense when the disclosure
86 of such information is necessary to complete any application for:

87 (1) A license, certificate, or permit issued by this state to practice such individual's
88 profession;

89 (2) Any license issued under chapter 313; or

90 (3) Paid or unpaid employment with an entity licensed under chapter 313, any
91 state-operated lottery, or any emergency services provider, including any law enforcement
92 agency.

93 Notwithstanding any provision of law to the contrary, an expunged offense shall not be
94 grounds for automatic disqualification of an applicant, but may be a factor for denying
95 employment, or a professional license, certificate, or permit.

96 8. If the court determines that such person has not met the criteria for any of the
97 offenses listed in the petition for expungement, the court shall enter an order dismissing
98 the petition. Any person whose petition for expungement has been dismissed by the court
99 for failure to meet the criteria set forth in subsection 4 of this section may not refile another
100 petition until a year has passed since the date of filing for the previous petition.

101 9. A person may be granted more than one expungement under this section
102 provided that no person shall be granted more than one order of expungement from the
103 same court. Nothing contained in this section shall prevent the court from maintaining
104 records to ensure that an individual has only one petition for expungement granted by such
105 court under this section.

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