

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Committee Substitute for Senate Bill No. 6, Page 53, Section 579.068, Line 76, by
2 inserting after said section and line the following:

3
4 "610.132. 1. (1) The department of health and senior services shall notify an individual
5 who obtains a patient identification card under Article XIV, Section 1 of the Constitution of
6 Missouri that he or she may be eligible to have any offense or municipal violation relating to the
7 possession of marijuana expunged if the offense or violation occurred within the state of Missouri
8 prior to the issuance of a patient identification card and was prosecuted under the jurisdiction of a
9 Missouri associate circuit or circuit court or a municipal court, so long as all offenses or municipal
10 violations relating to the possession of marijuana to be expunged are listed on the petition for
11 expungement.

12 (2) The department shall, on the application for a patient identification card, provide all
13 information necessary to file any necessary petition for expungement.

14 2. If the court determines, after hearing, that an individual has been issued a patient
15 identification card, the offense or municipal violation seeking to be expunged is related to the
16 possession of marijuana, and such offense or violation occurred within the state of Missouri prior to
17 the issuance of the patient identification card, the court shall enter an order for expungement.

18 3. A petition for expungement under this section may be made at any time, provided such
19 offense or violation occurred within the state of Missouri prior to the issuance of a patient
20 identification card.

21 4. Upon granting of the order of expungement, the records and files maintained in any court
22 proceeding in an associate or circuit division of the circuit court or in municipal court under this
23 section shall be confidential and only available to the parties or by order of the court for good cause
24 shown. The effect of such order shall be to restore such individual to the status he or she occupied
25 prior to such arrest, plea, or conviction and as if such event had never taken place. No individual as
26 to whom such order has been entered shall be held thereafter under any provision of any law to be
27 guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or
28 acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of
29 him or her for any purpose and no such inquiry shall be made for information relating to an
30 expungement under this section.

31 5. The provisions of this section shall not be construed to authorize expungement of any
32 conviction or plea of guilty for any offense committed by a commercial driver's license holder that
33 shall result in a violation of 49 CFR 384.226, as amended, or an offense committed by a person
34 while operating a commercial motor vehicle in violation of 49 CFR 391.15.

35 610.140. 1. Notwithstanding any other provision of law and subject to the provisions of this
36 section, any person may apply to any court in which such person was charged or found guilty of any

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1 offenses, violations, or infractions for an order to expunge records of such arrest, plea, trial, or
 2 conviction. Subject to the limitations of subsection 12 of this section, a person may apply to have
 3 one or more offenses, violations, or infractions expunged if such offense, violation, or infraction
 4 occurred within the state of Missouri and was prosecuted under the jurisdiction of a Missouri
 5 municipal, associate circuit, or circuit court, so long as such person lists all the offenses, violations,
 6 and infractions he or she is seeking to have expunged in the petition and so long as all such offenses,
 7 violations, and infractions are not excluded under subsection 2 of this section. If the offenses,
 8 violations, or infractions were charged as counts in the same indictment or information or were
 9 committed as part of the same course of criminal conduct, the person may include all the related
 10 offenses, violations, and infractions in the petition, regardless of the limits of subsection 12 of this
 11 section, and the petition shall only count as a petition for expungement of the highest level violation
 12 or offense contained in the petition for the purpose of determining future eligibility for
 13 expungement.

14 2. The following offenses, violations, and infractions shall not be eligible for expungement
 15 under this section:

- 16 (1) Any class A felony offense;
- 17 (2) Any dangerous felony as that term is defined in section 556.061;
- 18 (3) Any offense that requires registration as a sex offender;
- 19 (4) Any felony offense where death is an element of the offense;
- 20 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or
 21 felony offense of kidnapping;
- 22 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478,
 23 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,
 24 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,
 25 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045,
 26 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,
 27 569.060, 569.065, 569.067, 569.072, 569.100, 569.160, 570.025, 570.030, 570.090, 570.100,
 28 570.130, 570.180, 570.223, 570.224, 570.310, 571.020, 571.060, 571.063, 571.070, 571.072,
 29 571.150, 574.070, 574.105, 574.115, 574.120, 574.130, 575.040, 575.095, 575.153, 575.155,
 30 575.157, 575.159, 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353,
 31 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or 632.520;
- 32 (7) Any offense eligible for expungement under section 577.054 ~~or~~ 610.130, or 610.132;
- 33 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any
 34 offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated
 35 condition;
- 36 (9) Any ordinance violation that is the substantial equivalent of any offense that is not
 37 eligible for expungement under this section;
- 38 (10) Any violation of any state law or county or municipal ordinance regulating the
 39 operation of motor vehicles when committed by an individual who has been issued a commercial
 40 driver's license or is required to possess a commercial driver's license issued by this state or any
 41 other state; and
- 42 (11) Any offense of section 571.030, except any offense under subdivision (1) of subsection
 43 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017.

44 3. The petition shall name as defendants all law enforcement agencies, courts, prosecuting
 45 or circuit attorneys, municipal prosecuting attorneys, central state repositories of criminal records, or
 46 others who the petitioner has reason to believe may possess the records subject to expungement for
 47 each of the offenses, violations, and infractions listed in the petition. The court's order of
 48 expungement shall not affect any person or entity not named as a defendant in the action.

49 4. The petition shall include the following information:

- 1 (1) The petitioner's:
- 2 (a) Full name;
- 3 (b) Sex;
- 4 (c) Race;
- 5 (d) Driver's license number, if applicable; and
- 6 (e) Current address;
- 7 (2) Each offense, violation, or infraction for which the petitioner is requesting expungement;
- 8 (3) The approximate date the petitioner was charged for each offense, violation, or
- 9 infraction; and

10 (4) The name of the county where the petitioner was charged for each offense, violation, or

11 infraction and if any of the offenses, violations, or infractions occurred in a municipality, the name

12 of the municipality for each offense, violation, or infraction; and

13 (5) The case number and name of the court for each offense.

14 5. The clerk of the court shall give notice of the filing of the petition to the office of the

15 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offenses,

16 violations, or infractions listed in the petition. If the prosecuting attorney, circuit attorney, or

17 municipal prosecuting attorney objects to the petition for expungement, he or she shall do so in

18 writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the

19 court shall hold a hearing within sixty days after any written objection is filed, giving reasonable

20 notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt

21 of service, the court may set a hearing on the matter and shall give reasonable notice of the hearing

22 to each entity named in the petition. At any hearing, the court may accept evidence and hear

23 testimony on, and may consider, the following criteria for each of the offenses, violations, or

24 infractions listed in the petition for expungement:

25 (1) At the time the petition is filed, it has been at least seven years if the offense is a felony,

26 or at least three years if the offense is a misdemeanor, municipal offense, or infraction, from the date

27 the petitioner completed any authorized disposition imposed under section 557.011 for each offense,

28 violation, or infraction listed in the petition;

29 (2) The person has not been found guilty of any other misdemeanor or felony, not including

30 violations of the traffic regulations provided under chapters 304 and 307, during the time period

31 specified for the underlying offense, violation, or infraction in subdivision (1) of this subsection;

32 (3) The person has satisfied all obligations relating to any such disposition, including the

33 payment of any fines or restitution;

34 (4) The person does not have charges pending;

35 (5) The petitioner's habits and conduct demonstrate that the petitioner is not a threat to the

36 public safety of the state; and

37 (6) The expungement is consistent with the public welfare and the interests of justice

38 warrant the expungement.

39

40 A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and (6)

41 of this subsection shall create a rebuttable presumption that the expungement is warranted so long as

42 the criteria contained in subdivisions (1) to (4) of this subsection are otherwise satisfied. The

43 burden shall shift to the prosecuting attorney, circuit attorney, or municipal prosecuting attorney to

44 rebut the presumption. A victim of an offense, violation, or infraction listed in the petition shall

45 have an opportunity to be heard at any hearing held under this section, and the court may make a

46 determination based solely on such victim's testimony.

47 6. A petition to expunge records related to an arrest for an eligible offense, violation, or

48 infraction may be made in accordance with the provisions of this section to a court of competent

49 jurisdiction in the county where the petitioner was arrested no earlier than three years from the date

1 of arrest; provided that, during such time, the petitioner has not been charged and the petitioner has
2 not been found guilty of any misdemeanor or felony offense.

3 7. If the court determines that such person meets all the criteria set forth in subsection 5 of
4 this section for each of the offenses, violations, or infractions listed in the petition for expungement,
5 the court shall enter an order of expungement. In all cases under this section, the court shall issue an
6 order of expungement or dismissal within six months of the filing of the petition. A copy of the
7 order of expungement shall be provided to the petitioner and each entity possessing records subject
8 to the order, and, upon receipt of the order, each entity shall close any record in its possession
9 relating to any offense, violation, or infraction listed in the petition, in the manner established by
10 section 610.120. The records and files maintained in any administrative or court proceeding in a
11 municipal, associate, or circuit court for any offense, infraction, or violation ordered expunged
12 under this section shall be confidential and only available to the parties or by order of the court for
13 good cause shown. The central repository shall request the Federal Bureau of Investigation to
14 expunge the records from its files.

15 8. The order shall not limit any of the petitioner's rights that were restricted as a collateral
16 consequence of such person's criminal record, and such rights shall be restored upon issuance of the
17 order of expungement. Except as otherwise provided under this section, the effect of such order
18 shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or
19 convictions as if such events had never taken place. No person as to whom such order has been
20 entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise
21 giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas,
22 trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry
23 shall be made for information relating to an expungement, except the petitioner shall disclose the
24 expunged offense, violation, or infraction to any court when asked or upon being charged with any
25 subsequent offense, violation, or infraction. The expunged offense, violation, or infraction may be
26 considered a prior offense in determining a sentence to be imposed for any subsequent offense that
27 the person is found guilty of committing.

28 9. Notwithstanding the provisions of subsection 8 of this section to the contrary, a person
29 granted an expungement shall disclose any expunged offense, violation, or infraction when the
30 disclosure of such information is necessary to complete any application for:

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

33 (2) Any license issued under chapter 313 or permit issued under chapter 571;

34 (3) Paid or unpaid employment with an entity licensed under chapter 313, any state-operated
35 lottery, or any emergency services provider, including any law enforcement agency;

36 (4) Employment with any federally insured bank or savings institution or credit union or an
37 affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C. Section
38 1829 and 12 U.S.C. Section 1785;

39 (5) Employment with any entity engaged in the business of insurance or any insurer for the
40 purpose of complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar law
41 which requires an employer engaged in the business of insurance to exclude applicants with certain
42 criminal convictions from employment; or

43 (6) Employment with any employer that is required to exclude applicants with certain
44 criminal convictions from employment due to federal or state law, including corresponding rules and
45 regulations.

46
47 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this
48 subsection. Notwithstanding any provision of law to the contrary, an expunged offense, violation, or
49 infraction shall not be grounds for automatic disqualification of an applicant, but may be a factor for

denying employment, or a professional license, certificate, or permit; except that, an offense, violation, or infraction expunged under the provisions of this section may be grounds for automatic disqualification if the application is for employment under subdivisions (4) to (6) of this subsection.

10. A person who has been granted an expungement of records pertaining to a misdemeanor or felony offense, an ordinance violation, or an infraction may answer "no" to an employer's inquiry into whether the person has ever been convicted of a crime if, after the granting of the expungement, the person has no public record of a misdemeanor or felony offense, an ordinance violation, or an infraction. The person, however, shall answer such an inquiry affirmatively and disclose his or her criminal convictions, including any offense or violation expunged under this section or similar law, if the employer is required to exclude applicants with certain criminal convictions from employment due to federal or state law, including corresponding rules and regulations.

11. If the court determines that the petitioner has not met the criteria for any of the offenses, violations, or infractions listed in the petition for expungement or the petitioner has knowingly provided false information in the petition, the court shall enter an order dismissing the petition. Any person whose petition for expungement has been dismissed by the court for failure to meet the criteria set forth in subsection 5 of this section may not refile another petition until a year has passed since the date of filing for the previous petition.

12. A person may be granted more than one expungement under this section provided that during his or her lifetime, the total number of offenses, violations, or infractions for which orders of expungement are granted to the person shall not exceed the following limits:

(1) Not more than two misdemeanor offenses or ordinance violations that have an authorized term of imprisonment; except that, offenses or municipal violations relating to the possession of marijuana shall not be limited; and

(2) Not more than one felony offense.

A person may be granted expungement under this section for any number of infractions. Nothing in this section shall prevent the court from maintaining records to ensure that an individual has not exceeded the limitations of this subsection. Nothing in this section shall be construed to limit or impair in any way the subsequent use of any record expunged under this section of any arrests or findings of guilt by a law enforcement agency, criminal justice agency, prosecuting attorney, circuit attorney, or municipal prosecuting attorney, including its use as a prior offense, violation, or infraction.

13. The court shall make available a form for pro se petitioners seeking expungement, which shall include the following statement: "I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information, and belief."

14. Nothing in this section shall be construed to limit or restrict the availability of expungement to any person under any other law."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.