

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 363,
2 Page 5, Section 8.178, Line 8, by inserting after said section and line the following:

3
4 "43.508. 1. Except as provided in subsection 2 of this section and notwithstanding any other
5 provision of law, prior to the dissemination of criminal history information to a noncriminal justice
6 agency, all information relating to a conviction, and the arrest, indictment, or other information
7 leading thereto, that is the subject of a court order for limited access as provided in section 610.078
8 or all information relating to a conviction or nonconviction final disposition, and the arrest,
9 indictment, or other information leading to the arrest or indictment, that is subject to a court order
10 for limited access as provided for in section 610.080 shall be omitted.

11 2. Subsection 1 of this section shall not apply if the request is made under a court order:

12 (1) In a case for child custody or protection from abuse; or

13 (2) By an employer against whom a claim of civil liability has been brought, as described
14 under section 610.088, for purposes of defending against a claim of civil liability.

15 3. Subsection 1 of this section shall not apply:

16 (1) To the verification of information provided by an applicant if federal law, including rules
17 and regulations promulgated by a self-regulatory organization that has been created under federal
18 law, requires the consideration of an applicant's criminal history for purposes of employment; or

19 (2) To the verification of information provided to the supreme court, or an entity of the
20 supreme court, in its capacity to govern the practice, procedure, and conduct of all courts, the
21 admission to the bar, the practice of law, the administration of all courts, and supervision of all
22 officers of the judicial branch.

23 191.255. 1. Notwithstanding any other provision of law to the contrary, no state agency
24 shall disclose to the federal government the statewide list of persons who have obtained a medical
25 marijuana card.

26 2. Any violation of this section is a class E felony."; and
27

28 Further amend said bill, Page 82, Section 590.120, Line 46, by inserting after said section and line
29 the following:

30
31 "610.078. 1. Subject to the exceptions in subsection 2 of this section and notwithstanding
32 any other provision of law, upon petition of a person who has been free from conviction for a period
33 of ten years for an offense punishable by one or more years in prison and has completed each court-
34 ordered financial obligation of the sentence, the court where the conviction occurred may enter an
35 order that criminal history record information maintained by a criminal justice agency pertaining to
36 a qualifying offense that carries a maximum penalty of no more than five years be disseminated only

Action Taken _____ Date _____

to a criminal justice agency; upon its request, to the department of social services in the performance of duties relating to children and youth; or as provided in subsections 2 and 3 of section 43.508.

2. An order for limited access under subsection 1 of this section shall not be granted for any of the following:

(1) A conviction for an offense punishable by more than two years in prison that is any of the following or an attempt or a conspiracy or solicitation to commit any of the following:

(a) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under chapter 565;

(b) Any offense under chapter 566;

(c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in children under chapter 568; or

(d) An offense involving a firearm or other dangerous weapon under chapter 571; or

(2) An individual who:

(a) Has been convicted of murder, any felony in the first degree, or an offense punishable by imprisonment of twenty years or more;

(b) Has been convicted within the previous twenty years of:

a. A felony or an offense punishable by imprisonment of seven or more years involving:

(i) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under chapter 565;

(ii) Any offense under chapter 566;

(iii) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in children under chapter 568; or

(iv) An offense involving a firearm or other dangerous weapon under chapter 571; or

b. Four or more offenses punishable by imprisonment of two or more years; or

(c) Has been convicted within the previous fifteen years of:

a. Two or more offenses punishable by more than two years in prison; or

b. Any sexual offense under chapter 566.

610.080. 1. The following shall be subject to limited access:

(1) Subject to the exceptions under section 610.082 or if a court has vacated an order for limited access under section 610.084, criminal history record information pertaining to a conviction of a nonviolent offense or a nonsexual offense if a person has been free from conviction for ten years for any offense punishable by imprisonment of one or more years and if completion of each court-ordered financial obligation of the sentence has occurred; or

(2) Criminal history record information pertaining to charges that resulted in a final disposition other than a conviction.

2. (1) On a monthly basis, the Missouri office of state courts administrator shall transmit to the Missouri state highway patrol's central repository the record of any conviction eligible for limited access under subdivision (1) of subsection 1 of this section.

(2) The office of state courts administrator shall transmit to the Missouri state highway patrol's central repository the record of charges subject to limited access under subdivision (2) of subsection 1 of this section within thirty days after entry of the disposition and payment of each court-ordered financial obligation.

(3) If the Missouri state highway patrol's central repository determines through a validation process that a record transmitted is not eligible for limited access relief under subsection 1 of this section or does not match data held in the central repository, the Missouri state highway patrol shall notify the office of state courts administrator of such determination within thirty days of receiving the information.

(4) Upon the expiration of the thirty-day period under subdivision (3) of this subsection, the office of state courts administrator shall remove from the list of eligible records any record for

1 which the office of state courts administrator received a notification of ineligibility or nonmatch
 2 with central repository data.

3 (5) Monthly, each court shall issue an order for limited access for any record in its judicial
 4 circuit for which no notification of ineligibility was received by the office of state courts
 5 administrator.

6 3. A criminal history record that is the subject of an order for limited access under this
 7 section shall be made available to a noncriminal justice agency only as provided in subsections 2
 8 and 3 of section 43.508 or, upon request, to the department of social services in the performance of
 9 duties relating to children and youth.

10 610.082. 1. Limited access to records under subdivision (1) of subsection 1 of section
 11 610.080 shall not be granted for any of the following:

12 (1) A conviction for any of the following or an attempt, conspiracy, or solicitation to commit
 13 any of the following:

14 (a) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under
 15 chapter 565;

16 (b) Any offense under chapter 566;

17 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in
 18 children under chapter 568;

19 (d) An offense involving a firearm or other dangerous weapon under chapter 571; or

20 (e) An offense of animal abuse or neglect under chapter 578; or

21 (2) An individual who, at any time, has been convicted of:

22 (a) A felony;

23 (b) Two or more offenses punishable by imprisonment of more than two years; or

24 (c) Four or more offenses punishable by imprisonment of one or more years.

25 2. Limited access under this section shall not apply to an otherwise qualifying conviction if
 26 a conviction for an offense punishable by imprisonment of five or more years or an offense
 27 enumerated in subsection 1 of this section arose out of the same case.

28 3. Nothing in this section shall preclude the filing of a petition for limited access under
 29 section 610.078 if limited access is available under that section.

30 610.084. 1. Upon petition of the prosecuting attorney to the court where a conviction
 31 occurred, and with notice to the defendant and opportunity to be heard, the court shall vacate an
 32 order for limited access granted under section 610.080 if the court determines that the order was
 33 erroneously entered and not in accordance with section 610.080.

34 2. Upon conviction of a defendant of a misdemeanor or felony offense and upon a filing of a
 35 motion by the prosecuting attorney, the court shall enter an order vacating any prior order for limited
 36 access pertaining to a record of the defendant, except under subdivision (2) of subsection 1 of
 37 section 610.080.

38 3. An order under subsection 1 or 2 of this section shall be transmitted to the central
 39 repository of the Missouri state highway patrol.

40 610.086. 1. (1) Except if requested or required by a criminal justice agency, or if disclosure
 41 to noncriminal justice agencies is authorized or required by section 43.508, an individual shall not
 42 be required or requested to disclose information about the individual's criminal history record that
 43 has been provided limited access under section 610.078 or section 610.080. An individual required
 44 or requested to provide information in violation of this section may respond as if the offense did not
 45 occur.

46 (2) This subsection shall not apply if federal law, including rules and regulations
 47 promulgated by a self-regulatory organization that has been created under federal law, requires the
 48 consideration of an applicant's criminal history for purposes of employment.

49 2. A record subject to limited access under section 610.078 or 610.080 shall not be

1 considered a conviction that would prohibit the employment of a person under any law of this state
 2 or under federal laws that prohibit employment based on state convictions to the extent permitted by
 3 federal law.

4 610.088. An employer who employs or otherwise engages an individual whose criminal
 5 history record to which limited access has been applied under section 610.078 or 610.080 shall be
 6 immune from liability for any claim arising out of the misconduct of the individual if the
 7 misconduct relates to the portion of the criminal history record that has been provided limited
 8 access.

9 610.090. The official records pertaining to a case in which limited access has been granted
 10 under section 610.078 or 610.080 shall be considered closed records.

11 610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall
 12 mean:

13 (1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to
 14 the custody of the officer, under authority of a warrant or otherwise for a criminal violation which
 15 results in the issuance of a summons or the person being booked;

16 (2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention
 17 or confinement incident thereto together with the charge therefor;

18 (3) "Inactive", an investigation in which no further action will be taken by a law
 19 enforcement agency or officer for any of the following reasons:

20 (a) A decision by the law enforcement agency not to pursue the case;

21 (b) Expiration of the time to file criminal charges pursuant to the applicable statute of
 22 limitations, or ten years after the commission of the offense; whichever date earliest occurs;

23 (c) Finality of the convictions of all persons convicted on the basis of the information
 24 contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such
 25 persons;

26 (4) "Incident report", a record of a law enforcement agency consisting of the date, time,
 27 specific location, name of the victim and immediate facts and circumstances surrounding the initial
 28 report of a crime or incident, including any logs of reported crimes, accidents and complaints
 29 maintained by that agency;

30 (5) "Investigative report", a record, other than an arrest or incident report, prepared by
 31 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response
 32 to an incident report or in response to evidence developed by law enforcement officers in the course
 33 of their duties;

34 (6) "Mobile video recorder", any system or device that captures visual signals that is capable
 35 of installation and being installed in a vehicle or being worn or carried by personnel of a law
 36 enforcement agency and that includes, at minimum, a camera and recording capabilities;

37 (7) "Mobile video recording", any data captured by a mobile video recorder, including
 38 audio, video, and any metadata;

39 (8) "Nonpublic location", a place where one would have a reasonable expectation of
 40 privacy, including, but not limited to a dwelling, school, or medical facility.

41 2. (1) Each law enforcement agency of this state, of any county, and of any municipality
 42 shall maintain records of all incidents reported to the agency, investigations and arrests made by
 43 such law enforcement agency. All incident reports and arrest reports shall be open records.

44 (2) Notwithstanding any other provision of law other than the provisions of subsections 4, 5
 45 and 6 of this section or section 320.083, mobile video recordings and investigative reports of all law
 46 enforcement agencies are closed records until the investigation becomes inactive.

47 (3) If any person is arrested and not charged with an offense against the law within thirty
 48 days of the person's arrest, the arrest report shall thereafter be a closed record except that the
 49 disposition portion of the record may be accessed and except as provided in section 610.120.

(4) Except as provided in subsections 3 and 5 of this section, a mobile video recording that is recorded in a nonpublic location is authorized to be closed, except that any person who is depicted in the recording or whose voice is in the recording, a legal guardian or parent of such person if he or she is a minor, a family member of such person within the first degree of consanguinity if he or she is deceased or incompetent, an attorney for such person, or insurer of such person, upon written request, may obtain a complete, unaltered, and unedited copy of a recording under and pursuant to this section.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a legal guardian or a parent of such person if he or she is a minor, family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, ~~or~~ insurer of a person, or creditor with a secured interest in the property, involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. (1) Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of a mobile video recording or the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of a mobile video recording or the information contained in an investigative report be released to the person bringing the action.

(2) In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity.

(3) In making the determination as to whether a mobile video recording shall be disclosed, the court shall consider:

(a) Whether the benefit to the person bringing the action or the benefit to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the mobile video recording in regard and with respect to the need for law enforcement agencies to effectively investigate and prosecute criminal activity;

(b) Whether the mobile video recording contains information that is reasonably likely to

1 disclose private matters in which the public has no legitimate concern;

2 (c) Whether the mobile video recording is reasonably likely to bring shame or humiliation to
3 a person of ordinary sensibilities; and

4 (d) Whether the mobile video recording was taken in a place where a person recorded or
5 depicted has a reasonable expectation of privacy.

6 (4) The mobile video recording or investigative report in question may be examined by the
7 court in camera.

8 (5) If the disclosure is authorized in whole or in part, the court may make any order that
9 justice requires, including one or more of the following:

10 (a) That the mobile video recording or investigative report may be disclosed only on
11 specified terms and conditions, including a designation of the time or place;

12 (b) That the mobile video recording or investigative report may be had only by a method of
13 disclosure other than that selected by the party seeking such disclosure and may be disclosed to the
14 person making the request in a different manner or form as requested;

15 (c) That the scope of the request be limited to certain matters;

16 (d) That the disclosure occur with no one present except persons designated by the court;

17 (e) That the mobile video recording or investigative report be redacted to exclude, for
18 example, personally identifiable features or other sensitive information;

19 (f) That a trade secret or other confidential research, development, or commercial
20 information not be disclosed or be disclosed only in a designated way.

21 (6) The court may find that the party seeking disclosure of the mobile video recording or the
22 investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties,
23 unless the court finds that the decision of the law enforcement agency not to open the mobile video
24 recording or investigative report was substantially unjustified under all relevant circumstances, and
25 in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law
26 enforcement agency.

27 6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction
28 for an order requiring a law enforcement agency to open incident reports and arrest reports being
29 unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that
30 the law enforcement officer or agency has knowingly violated this section, the officer or agency
31 shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that
32 there is a knowing violation of this section, the court may order payment by such officer or agency
33 of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a
34 preponderance of the evidence that the law enforcement officer or agency has purposely violated
35 this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand
36 dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as
37 provided in section 610.027. The court shall determine the amount of the penalty by taking into
38 account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement
39 officer or agency has violated this section previously.

40 7. The victim of an offense as provided in chapter 566 may request that his or her identity be
41 kept confidential until a charge relating to such incident is filed.

42 8. Any person who requests and receives a mobile video recording that was recorded in a
43 nonpublic location under and pursuant to this section is prohibited from displaying or disclosing the
44 mobile video recording, including any description or account of any or all of the mobile video
45 recording, without first providing direct third-party notice to each person not affiliated with a law
46 enforcement agency or each non-law enforcement agency individual whose image or sound is
47 contained in the recording, and affording, upon receiving such notice, each person appearing and
48 whose image or sound is contained in the mobile video recording no less than ten days to file and
49 serve an action seeking an order from a court of competent jurisdiction to enjoin all or some of the

intended display, disclosure, description, or account of the recording. Any person who fails to comply with the provisions of this subsection is subject to damages in a civil action proceeding.

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

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

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

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

4. Upon granting of the order of expungement, the records and files maintained in any court proceeding in an associate or circuit division of the circuit court or in municipal court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such individual to the status he or she occupied prior to such arrest, plea, or conviction and as if such event had never taken place. No individual 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 by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him or her for any purpose and no such inquiry shall be made for information relating to an expungement under this section.

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

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

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

- 1 (1) Any class A felony offense;
- 2 (2) Any dangerous felony as that term is defined in section 556.061;
- 3 (3) Any offense that requires registration as a sex offender;
- 4 (4) Any felony offense where death is an element of the offense;
- 5 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or
- 6 felony offense of kidnapping;
- 7 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478,
- 8 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,
- 9 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,
- 10 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045,
- 11 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,
- 12 569.060, 569.065, 569.067, 569.072, 569.100, 569.160, 570.025, 570.030, 570.090, 570.100,
- 13 570.130, 570.180, 570.223, 570.224, 570.310, 571.020, 571.060, 571.063, 571.070, 571.072,
- 14 571.150, 574.070, 574.105, 574.115, 574.120, 574.130, 575.040, 575.095, 575.153, 575.155,
- 15 575.157, 575.159, 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353,
- 16 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or 632.520;
- 17 (7) Any offense eligible for expungement under section 577.054 ~~[or]~~ 610.130, or 610.132;
- 18 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any
- 19 offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated
- 20 condition;
- 21 (9) Any ordinance violation that is the substantial equivalent of any offense that is not
- 22 eligible for expungement under this section;
- 23 (10) Any violation of any state law or county or municipal ordinance regulating the
- 24 operation of motor vehicles when committed by an individual who has been issued a commercial
- 25 driver's license or is required to possess a commercial driver's license issued by this state or any
- 26 other state; and
- 27 (11) Any offense of section 571.030, except any offense under subdivision (1) of subsection
- 28 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017.
- 29 3. The petition shall name as defendants all law enforcement agencies, courts, prosecuting
- 30 or circuit attorneys, municipal prosecuting attorneys, central state repositories of criminal records, or
- 31 others who the petitioner has reason to believe may possess the records subject to expungement for
- 32 each of the offenses, violations, and infractions listed in the petition. The court's order of
- 33 expungement shall not affect any person or entity not named as a defendant in the action.
- 34 4. The petition shall include the following information:
- 35 (1) The petitioner's:
- 36 (a) Full name;
- 37 (b) Sex;
- 38 (c) Race;
- 39 (d) Driver's license number, if applicable; and
- 40 (e) Current address;
- 41 (2) Each offense, violation, or infraction for which the petitioner is requesting expungement;
- 42 (3) The approximate date the petitioner was charged for each offense, violation, or
- 43 infraction; and
- 44 (4) The name of the county where the petitioner was charged for each offense, violation, or
- 45 infraction and if any of the offenses, violations, or infractions occurred in a municipality, the name
- 46 of the municipality for each offense, violation, or infraction; and
- 47 (5) The case number and name of the court for each offense.
- 48 5. The clerk of the court shall give notice of the filing of the petition to the office of the
- 49 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offenses,

violations, or infractions listed in the petition. If the prosecuting attorney, circuit attorney, or municipal prosecuting attorney objects to the petition for expungement, he or she shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the court shall hold a hearing within sixty days after any written objection is filed, giving reasonable notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt of service, the court may set a hearing on the matter and shall give reasonable notice of the hearing to each entity named in the petition. At any hearing, the court may accept evidence and hear testimony on, and may consider, the following criteria for each of the offenses, violations, or infractions listed in the petition for expungement:

(1) At the time the petition is filed, it has been at least seven years if the offense is a felony, or at least three years if the offense is a misdemeanor, municipal offense, or infraction, from the date the petitioner completed any authorized disposition imposed under section 557.011 for each offense, violation, or infraction listed in the petition;

(2) The person has not been found guilty of any other misdemeanor or felony, not including violations of the traffic regulations provided under chapters 304 and 307, during the time period specified for the underlying offense, violation, or infraction in subdivision (1) of this subsection;

(3) The person has satisfied all obligations relating to any such disposition, including the payment of any fines or restitution;

(4) The person does not have charges pending;

(5) The petitioner's habits and conduct demonstrate that the petitioner is not a threat to the public safety of the state; and

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

A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and (6) of this subsection shall create a rebuttable presumption that the expungement is warranted so long as the criteria contained in subdivisions (1) to (4) of this subsection are otherwise satisfied. The burden shall shift to the prosecuting attorney, circuit attorney, or municipal prosecuting attorney to rebut the presumption. A victim of an offense, violation, or infraction listed in the petition shall have an opportunity to be heard at any hearing held under this section, and the court may make a determination based solely on such victim's testimony.

6. A petition to expunge records related to an arrest for an eligible offense, violation, or infraction may be made in accordance with the provisions of this section to a court of competent jurisdiction in the county where the petitioner was arrested no earlier than three years from the date of arrest; provided that, during such time, the petitioner has not been charged and the petitioner has not been found guilty of any misdemeanor or felony offense.

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

8. The order shall not limit any of the petitioner's rights that were restricted as a collateral

consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall be made for information relating to an expungement, except the petitioner shall disclose the expunged offense, violation, or infraction to any court when asked or upon being charged with any subsequent offense, violation, or infraction. The expunged offense, violation, or infraction may be considered a prior offense in determining a sentence to be imposed for any subsequent offense that the person is found guilty of committing.

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

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

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

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

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

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

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

An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this subsection. Notwithstanding any provision of law to the contrary, an expunged offense, violation, or 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

1 criteria set forth in subsection 5 of this section may not refile another petition until a year has passed
2 since the date of filing for the previous petition.

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

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

9 (2) Not more than one felony offense.

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

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

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

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.