

**HOUSE AMENDMENT NO. \_\_\_\_\_**  
**TO**  
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**Offered By**

AMEND House Amendment No. \_\_\_\_\_ to House Committee Substitute for Senate Substitute No. 2 for Senate Bill No. 26, Page 2, Line 15, by inserting after all of said line the following:

"Further amend said bill, Page 9, Section 590.502, Line 175, by inserting after all of said line and section the following:

"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) Any class A felony offense;
- (2) Any dangerous felony as that term is defined in section 556.061;
- (3) Any offense that requires registration as a sex offender;
- (4) Any felony offense where death is an element of the offense;
- (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or felony offense of kidnapping;

- (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478, 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991, 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130, 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045, 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 569.060, 569.065, 569.067, 569.072, 569.160, 570.025, 570.090, 570.180, 570.223, 570.224,  
 2 570.310, 571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115,  
 3 574.120, 574.130, 575.040, 575.095, 575.153, 575.155, 575.157, 575.159, 575.195, 575.200,  
 4 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703, 577.706, 578.008,  
 5 578.305, 578.310, or 632.520;

6 (7) Any offense eligible for expungement under section 577.054 or 610.130;

7 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any  
 8 offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated  
 9 condition;

10 (9) Any ordinance violation that is the substantial equivalent of any offense that is not  
 11 eligible for expungement under this section;

12 (10) Any violation of any state law or county or municipal ordinance regulating the  
 13 operation of motor vehicles when committed by an individual who has been issued a commercial  
 14 driver's license or is required to possess a commercial driver's license issued by this state or any  
 15 other state; and

16 (11) Any offense of section 571.030, except any offense under subdivision (1) of subsection  
 17 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017.

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

23 4. The petition shall include the following information:

24 (1) The petitioner's:

25 (a) Full name;

26 (b) Sex;

27 (c) Race;

28 (d) Driver's license number, if applicable; and

29 (e) Current address;

30 (2) Each offense, violation, or infraction for which the petitioner is requesting expungement;

31 (3) The approximate date the petitioner was charged for each offense, violation, or  
 32 infraction; and

33 (4) The name of the county where the petitioner was charged for each offense, violation, or  
 34 infraction and if any of the offenses, violations, or infractions occurred in a municipality, the name  
 35 of the municipality for each offense, violation, or infraction; and

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

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

48 (1) At the time the petition is filed, it has been at least seven years if the offense is a felony,  
 49 or at least three years if the offense is a misdemeanor, municipal offense, or infraction, from the date

1 the petitioner completed any authorized disposition imposed under section 557.011 for each offense,  
2 violation, or infraction listed in the petition;

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

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

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

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

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

13  
14 A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and (6)  
15 of this subsection shall create a rebuttable presumption that the expungement is warranted so long as  
16 the criteria contained in subdivisions (1) to (4) of this subsection are otherwise satisfied. The  
17 burden shall shift to the prosecuting attorney, circuit attorney, or municipal prosecuting attorney to  
18 rebut the presumption. A victim of an offense, violation, or infraction listed in the petition shall  
19 have an opportunity to be heard at any hearing held under this section, and the court may make a  
20 determination based solely on such victim's testimony.

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

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

38 8. The order shall not limit any of the petitioner's rights that were restricted as a collateral  
39 consequence of such person's criminal record, and such rights shall be restored upon issuance of the  
40 order of expungement. For purposes of 18 U.S.C. 921(a)(3)(B)(ii), an order of expungement granted  
41 pursuant to this section shall be considered a complete removal of all effects of the expunged  
42 conviction. Except as otherwise provided under this section, the effect of such order shall be to  
43 restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions  
44 as if such events had never taken place. No person as to whom such order has been entered shall be  
45 held thereafter under any provision of law to be guilty of perjury or otherwise giving a false  
46 statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials,  
47 convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall  
48 be made for information relating to an expungement, except the petitioner shall disclose the  
49 expunged offense, violation, or infraction to any court when asked or upon being charged with any

1 subsequent offense, violation, or infraction. The expunged offense, violation, or infraction may be  
2 considered a prior offense in determining a sentence to be imposed for any subsequent offense that  
3 the person is found guilty of committing.

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

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

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

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

12 (4) Employment with any federally insured bank or savings institution or credit union or an  
13 affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C. Section  
14 1829 and 12 U.S.C. Section 1785;

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

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

22  
23 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this  
24 subsection. Notwithstanding any provision of law to the contrary, an expunged offense, violation, or  
25 infraction shall not be grounds for automatic disqualification of an applicant, but may be a factor for  
26 denying employment, or a professional license, certificate, or permit; except that, an offense,  
27 violation, or infraction expunged under the provisions of this section may be grounds for automatic  
28 disqualification if the application is for employment under subdivisions (4) to (6) of this subsection.

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

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

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

46 (1) Not more than two misdemeanor offenses or ordinance violations that have an  
47 authorized term of imprisonment; and

48 (2) Not more than one felony offense.  
49

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

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

11 14. Nothing in this section shall be construed to limit or restrict the availability of  
12 expungement to any person under any other law."; and"; and  
13

14 Further amend said bill by amending the title, enacting clause, and intersectional references  
15 accordingly.  
16

17 THIS AMENDS 0828H05.86H