

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 186, Page 27, Section 575.095, Line 29,
2 by inserting after said section and line the following:

3
4 "575.150. 1. A person commits the offense of resisting [Ø], interfering with, escaping, or
5 attempting to escape from arrest, detention, [Ø] stop, or custody if he or she knows or reasonably
6 should know that a law enforcement officer is making an arrest or attempting to lawfully detain or
7 stop an individual or vehicle, and for the purpose of preventing the officer from effecting the arrest,
8 stop or detention or maintaining custody after such stop, detention, or arrest, he or she:

9 (1) Resists the arrest, stop or detention of such person by using or threatening the use of
10 violence or physical force or by fleeing from such officer; [Ø]

11 (2) Interferes with the arrest, stop or detention of another person by using or threatening the
12 use of violence, physical force or physical interference; or

13 (3) While being held in custody after a stop, detention, or arrest has been made, escapes or
14 attempts to escape from such custody.

15 2. This section applies to:

16 (1) Arrests, stops, or detentions, with or without warrants;

17 (2) Arrests, stops, [Ø] detentions, or custody for any offense, infraction, or ordinance
18 violation; and

19 (3) Arrests for warrants issued by a court or a probation and parole officer.

20 3. A person is presumed to be fleeing a vehicle stop if he or she continues to operate a motor
21 vehicle after he or she has seen or should have seen clearly visible emergency lights or has heard or
22 should have heard an audible signal emanating from the law enforcement vehicle pursuing him or
23 her. Nothing in this section shall be construed to require the state to prove in a prosecution against a
24 defendant that the defendant knew why he or she was being stopped, detained, or arrested.

25 4. It is no defense to a prosecution pursuant to subsection 1 of this section that the law
26 enforcement officer was acting unlawfully in making the arrest. However, nothing in this section
27 shall be construed to bar civil suits for unlawful arrest.

28 5. The offense of resisting [Ø], interfering with [an], or escaping or attempting to escape
29 from a stop, detention, or arrest or from custody after such stop, detention, or arrest is a class [E]
30 ~~felony for an arrest for a:~~

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- 1 ~~(1) Felony;~~
 2 ~~(2) Warrant issued for failure to appear on a felony case; or~~
 3 ~~(3) Warrant issued for a probation violation on a felony case.~~

4
 5 ~~The offense of resisting an arrest, detention or stop in violation of subdivision (1) or (2) of~~
 6 ~~subsection 1 of this section is a class] A misdemeanor, unless [the person fleeing creates a~~
 7 ~~substantial risk of serious physical injury or death to any person, in which case it is a class E~~
 8 ~~felony];~~

- 9 (1) The stop, detention, arrest, or custody was for a felony;
 10 (2) The stop, detention, arrest, or custody was for a warrant issued for failure to appear on a
 11 felony case;
 12 (3) The stop, detention, arrest, or custody was for a warrant issued for a probation violation
 13 on a felony case;
 14 (4) While resisting, interfering with, or escaping or attempting to escape from a stop,
 15 detention, or arrest or from custody, the person flees and during such flight creates a substantial risk
 16 of serious physical injury or death to any person; or
 17 (5) The escape or attempt to escape while in custody or under arrest was for a felony,

18
 19 in which case it is a class E felony; except that, if such escape or attempted escape is committed by
 20 means of a deadly weapon or dangerous instrument or by holding any person hostage it is a class A
 21 felony.

22 575.151. 1. A person commits the offense of resisting arrest by fleeing in or on a motor
 23 vehicle if he or she resists an arrest, a stop, or a detention by fleeing in or on a motor vehicle from a
 24 law enforcement officer and, during the course of fleeing, drives at a speed or in a manner that
 25 demonstrates a disregard for the safety of any person or property, including that of the pursuing
 26 officer or other occupants of the fleeing vehicle.

27 2. A person commits the offense of aggravated resisting arrest by fleeing in or on a motor
 28 vehicle if he or she resists an arrest, a stop, or a detention by fleeing in or on a motor vehicle from a
 29 law enforcement officer and, during the course of fleeing, drives at a speed or in a manner that
 30 demonstrates a disregard for the safety of any person or property, including that of the pursuing
 31 officer or other occupants of the fleeing vehicle, and that results in serious bodily injury or death to
 32 another person, including any officer.

33 3. Nothing in this section shall be construed to require the state to prove in a prosecution
 34 against a defendant that the defendant knew why he or she was being stopped, detained, or arrested.

35 4. The offense of resisting arrest by fleeing in or on a motor vehicle is a class E felony,
 36 unless the person has been previously convicted under subsection 1 of this section, in which case is
 37 a class D felony. The offense of aggravated resisting arrest by fleeing in or on a motor vehicle is a
 38 class D felony, unless the person has been previously convicted under subsection 2 of this section, in
 39 which case it is a class C felony."; and

Further amend said bill, Page 30, Section 590.1075, Line 11, by inserting after said section and line 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, 569.060, 569.065, 569.067, 569.072, 569.160, 570.025, 570.090, 570.180, 570.223, 570.224, 570.310, 571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115, 574.120, 574.130, 575.040, 575.095, 575.150, 575.151, 575.153, 575.155, 575.157, 575.159, 575.195, ~~575.200~~, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or 632.520;
- (7) Any offense eligible for expungement under section 577.054 or 610.130;

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

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

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

10 (11) Any offense of section 571.030, except any offense under subdivision (1) of subsection
11 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017, or any
12 offense under subdivision (4) of subsection 1 of section 571.030.

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

18 4. The petition shall include the following information:

19 (1) The petitioner's:

20 (a) Full name;

21 (b) Sex;

22 (c) Race;

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

24 (e) Current address;

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

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

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

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

32 5. The clerk of the court shall give notice of the filing of the petition to the office of the
33 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offenses,
34 violations, or infractions listed in the petition. If the prosecuting attorney, circuit attorney, or
35 municipal prosecuting attorney objects to the petition for expungement, he or she shall do so in
36 writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the
37 court shall hold a hearing within sixty days after any written objection is filed, giving reasonable
38 notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt
39 of service, the court may set a hearing on the matter and shall give reasonable notice of the hearing

1 to each entity named in the petition. At any hearing, the court may accept evidence and hear
2 testimony on, and may consider, the following criteria for each of the offenses, violations, or
3 infractions listed in the petition for expungement:

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

8 (2) At the time the petition is filed, the person has not been found guilty of any other
9 misdemeanor or felony, not including violations of the traffic regulations provided under chapters
10 301, 302, 303, 304, and 307, during the time period specified for the underlying offense, violation,
11 or infraction in subdivision (1) of this subsection;

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

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

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

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

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

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

32 7. If the court determines that such person meets all the criteria set forth in subsection 5 of
33 this section for each of the offenses, violations, or infractions listed in the petition for expungement,
34 the court shall enter an order of expungement. In all cases under this section, the court shall issue an
35 order of expungement or dismissal within six months of the filing of the petition. A copy of the
36 order of expungement shall be provided to the petitioner and each entity possessing records subject
37 to the order, and, upon receipt of the order, each entity shall close any record in its possession
38 relating to any offense, violation, or infraction listed in the petition, in the manner established by
39 section 610.120. The records and files maintained in any administrative or court proceeding in a

1 municipal, associate, or circuit court for any offense, infraction, or violation ordered expunged
2 under this section shall be confidential and only available to the parties or by order of the court for
3 good cause shown. The central repository shall request the Federal Bureau of Investigation to
4 expunge the records from its files.

5 8. The order shall not limit any of the petitioner's rights that were restricted as a collateral
6 consequence of such person's criminal record, and such rights shall be restored upon issuance of the
7 order of expungement. For purposes of 18 U.S.C. Section 921(a)(33)(B)(ii), an order or
8 expungement granted pursuant to this section shall be considered a complete removal of all effects
9 of the expunged conviction. Except as otherwise provided under this section, the effect of such
10 order shall be to restore such person to the status he or she occupied prior to such arrests, pleas,
11 trials, or convictions as if such events had never taken place. No person as to whom such order has
12 been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise
13 giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas,
14 trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry
15 shall be made for information relating to an expungement, except the petitioner shall disclose the
16 expunged offense, violation, or infraction to any court when asked or upon being charged with any
17 subsequent offense, violation, or infraction. The expunged offense, violation, or infraction may be
18 considered a prior offense in determining a sentence to be imposed for any subsequent offense that
19 the person is found guilty of committing.

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

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

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

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

28 (4) Employment with any federally insured bank or savings institution or credit union or an
29 affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C. Section
30 1829 and 12 U.S.C. Section 1785;

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

35 (6) Employment with any employer that is required to exclude applicants with certain
36 criminal convictions from employment due to federal or state law, including corresponding rules and
37 regulations.
38

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

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

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

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

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

26 (2) Not more than one felony offense.
27

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

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

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

1
2 ~~[575.200. 1. A person commits the offense of escape from custody or~~
3 ~~attempted escape from custody if, while being held in custody after arrest for any~~
4 ~~offense or violation of probation or parole, he or she escapes or attempts to escape~~
5 ~~from custody.~~

6 ~~2. The offense of escape or attempted escape from custody is a class A~~
7 ~~misdemeanor unless:~~

8 ~~(1) The person escaping or attempting to escape is under arrest for a~~
9 ~~felony, in which case it is a class E felony; or~~

10 ~~(2) The offense is committed by means of a deadly weapon or dangerous instrument or by~~
11 ~~holding any person as hostage, in which case it is a class A felony.]"~~; and

12
13 Further amend said bill by amending the title, enacting clause, and intersectional references
14 accordingly.