

FIRST REGULAR SESSION

HOUSE BILL NO. 1234

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TERRY.

2753H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 610, RSMo, by adding thereto four new sections relating to expungement.

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

Section A. Chapter 610, RSMo, is amended by adding thereto four new sections, to
2 be known as sections 610.141, 610.142, 610.143, and 610.144, to read as follows:

- 3 **610.141. 1. As used in sections 610.140 to 610.146, the following terms mean:**
4 **(1) "Automated expungement", technology-assisted, state-initiated bulk closing**
5 **of records in the manner established under section 610.120;**
6 **(2) "Central repository", the Missouri state highway patrol central repository**
7 **for compiling and disseminating complete and accurate criminal history records;**
8 **(3) "Charges pending", charges for which an individual has not yet been**
9 **sentenced;**
10 **(4) "Clean slate eligible offense", an infraction, misdemeanor, or felony not**
11 **listed under subsection 2 of section 610.140 for which an electronic record exists;**
12 **(5) "Close" or "closed", to make records inaccessible to the general public and**
13 **to all individuals other than the defendant, except as provided under section 610.120**
14 **and chapter 43;**
15 **(6) "Expunge" or "expunged", to close a record in the manner established under**
16 **section 610.120;**
17 **(7) "Final disposition", the date the person has completed his or her**
18 **incarceration or probation and has satisfied all obligations, including the payment of**
any restitution, but not including the payment of outstanding fines or fees imposed by
the court;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **(8) "Petitioner", includes a person who has petitioned the court to have his or**
20 **her conviction or convictions expunged and a person whose conviction or convictions**
21 **have been automatically expunged under this section;**

22 **(9) "Traffic violation", a violation of the traffic regulations provided under**
23 **chapters 301, 302, 303, 304, and 307.**

24 **2. (1) Beginning August 28, 2028, all records and files maintained in any**
25 **administrative or court proceeding in a municipal, associate, or circuit court pertaining**
26 **to clean slate eligible offenses shall be closed in the manner established under section**
27 **610.120 without the filing of a petition under section 610.140, subject to the limitations**
28 **contained in subdivisions (2), (3), and (4) of this subsection and subject to the following:**

29 **(a) For cases in which the imposition of sentence has been suspended, if an**
30 **individual has successfully completed probation, the record shall be closed so long as**
31 **one year has passed since final disposition, and the individual has not committed any**
32 **felony or misdemeanor offense other than a traffic violation during that time;**

33 **(b) For infractions, municipal offenses, and misdemeanors, the record shall be**
34 **closed if one year has passed since final disposition and the individual has not committed**
35 **any felony or misdemeanor offense other than a traffic violation during that time;**

36 **(c) For felony offenses, the record shall be closed if three years have passed since**
37 **final disposition and the individual has not committed any felony or misdemeanor**
38 **offense other than a traffic violation during that time;**

39 **(d) For all of an individual's offenses if the individual has attained sixty-five**
40 **years of age and has not been convicted of any misdemeanors or felonies other than a**
41 **traffic violation or a technical violation of the terms of their probation or parole in the**
42 **immediate ten preceding years; or**

43 **(e) All offenses for which the governor of Missouri has granted a full pardon.**

44 **(2) Records pertaining to juvenile adjudications or offenses involving the**
45 **operation of a motor vehicle are not eligible for automated expungement.**

46 **(3) No offense, violation, or infraction shall be eligible for automated**
47 **expungement if a person has charges pending during the period of review for clean**
48 **slate eligibility as described in subsection 3 of this section.**

49 **(4) (a) An individual may be granted more than one expungement under this**
50 **section, provided that during his or her lifetime the total number of offenses, violations,**
51 **or infractions for which expungement can be granted to the individual under this**
52 **section or section 610.140 shall not exceed the following limits:**

53 **a. No more than two felony offenses; and**

54 **b. No more than four misdemeanor offenses or ordinance violations that have an**
55 **authorized term of imprisonment.**

56 **(b) An individual may be granted expungement under this section for any**
57 **number of infractions.**

58 **(c) If an individual's record contains more felonies or misdemeanors than can be**
59 **expunged during the individual's lifetime under paragraph (a) of this subdivision, the**
60 **individual shall not be eligible for automated expungement under this section.**

61 **(d) For purposes of determining lifetime limits on expungement under this**
62 **section and section 610.140:**

63 **a. If the offenses or violations were charged as counts in the same case, all such**
64 **offenses and violations shall count as only the highest level offense or violation in that**
65 **case for purposes of determining lifetime limits on expungement under this section and**
66 **section 610.140. However, if one or more counts in the same indictment or information**
67 **or conduct committed were a part of the same course of criminal conduct as an offense**
68 **listed in subsection 2 of section 610.140, the entire record shall not be expunged under**
69 **this section;**

70 **b. If the offenses or violations were committed by an individual who has reached**
71 **sixty-five years of age and has not been convicted of any misdemeanors or felonies other**
72 **than traffic violations in the immediate ten preceding years, all clean slate eligible**
73 **offenses shall be expunged.**

74 **(e) The court shall maintain records to ensure that a person has not exceeded the**
75 **limitations provided under this subsection. Nothing in this section shall be construed to**
76 **limit or impair the subsequent use of any record maintained by the court for the**
77 **purpose of any law enforcement or prosecutorial investigation or activity including any**
78 **arrest or findings of guilt expunged under this section by a law enforcement agency,**
79 **criminal justice agency, prosecuting attorney, circuit attorney, or municipal prosecuting**
80 **attorney, including its use as a prior offense, violation, or infraction in a subsequent**
81 **criminal or civil investigation or prosecution.**

82 **3. (1) Beginning August 28, 2028, on a monthly basis, the office of state courts**
83 **administrator shall identify and transmit to the central repository and every**
84 **prosecuting agency in the state all clean slate eligible offense records within thirty**
85 **days of the record becoming eligible for automated expungement.**

86 **(2) Records that are eligible for automated expungement on or before August 28,**
87 **2025, shall be identified and expunged by August 28, 2030.**

88 **(3) Delinquent court costs, fines, fees, or other sums ordered by a court, except**
89 **restitution owed to a victim of a crime, shall not be expunged and shall not be**
90 **considered by the office of state courts administrator when determining expungement of**
91 **a record without the filing of a petition under subsection 2 of this section. The office of**
92 **state courts administrator shall seek a setoff of any income tax refund and lottery prize**

93 payouts under section 488.5028 for all delinquent court costs, fines, fees, or other sums
94 ordered by a court relating to convictions expunged under subsection 2 of this section.

95 (4) Each prosecuting agency in this state has no later than sixty days from the
96 day on which the notice described in subdivision (1) of this subsection is transmitted to
97 object to an automated expungement and transmit such objection to all parties. The
98 prosecuting agency may object to the automatic expungement for any of the following
99 reasons:

100 (a) After reviewing the prosecuting agency's record, the agency believes the
101 record does not meet the definition of a clean slate eligible case;

102 (b) The person has not paid court-ordered restitution to the victim; or

103 (c) The person has charges pending against them in another case.

104 (5) If a prosecuting agency objects for a reason described in subdivision (4) of
105 this subsection, within sixty days of the day on which the notice described in subdivision
106 (1) of this subsection is transmitted, the record shall not be expunged.

107 (6) If sixty days have passed without an objection from a prosecuting agency or
108 the central repository for one of the reasons set forth under this subsection, the office of
109 state courts administrator shall transmit within fifteen days all the records to be
110 expunged, sorted by circuit, to the presiding judges of every circuit court.

111 (7) (a) Within thirty days of receiving a notice to expunge, the circuit court shall
112 issue orders for expungement of all records maintained in the circuit for which no
113 notification of ineligibility was received by the office of state courts administrator from
114 the central repository or a prosecuting agency unless the circuit court determines the
115 record is not eligible for automated expungement.

116 (b) If the circuit court determines a record is not eligible for automated
117 expungement, the court shall notify the office of state courts administrator in writing of
118 its determination within thirty days and shall specify the reasons the court relied upon
119 in making the determination.

120 (8) On a monthly basis, each circuit court shall issue orders for expungement of
121 all records of arrest, charge, and conviction for ordinance violations and
122 nonfingerprintable offenses in the circuit that the court determines are eligible for
123 automated expungement.

124 (9) On a monthly basis, each circuit court shall transmit copies of all orders for
125 expungement that the court issues under this section to the office of state courts
126 administrator.

127 (10) Once the transmitted records are expunged, the office of state courts
128 administrator shall provide notice to all state agencies maintaining official copies of the
129 records including, but not limited to, the appropriate circuit court clerk, the prosecuting

130 or circuit attorney, the arresting law enforcement agency or agencies, the department of
131 corrections, the central repository, and the department of revenue to expunge the
132 records within thirty days.

133 (11) The Missouri state highway patrol shall retain a nonpublic record of the
134 order expunging a conviction or other notification regarding a conviction that was
135 automatically expunged under this section and of the record of the arrest, fingerprints,
136 conviction, and sentence of the person in the case to which the order or other
137 notification applies. The nonpublic record shall be made available only to a court of
138 competent jurisdiction, the office of state courts administrator, the department of
139 corrections, a law enforcement agency, a prosecuting or circuit attorney, the attorney
140 general, or the governor upon request and only for the following purposes:

141 (a) To show that a person who has filed a petition to expunge a conviction has
142 previously had a conviction expunged under this section;

143 (b) The court's consideration in determining the sentence to be imposed upon
144 conviction for a subsequent offense that is punishable as a felony or by imprisonment
145 for more than one year;

146 (c) Consideration by the governor if a person whose conviction has been
147 expunged applies for a pardon for another offense;

148 (d) Consideration by the department of corrections or a law enforcement agency
149 if a person whose conviction has been expunged applies for employment with the
150 department of corrections or a law enforcement agency;

151 (e) Consideration by a court, law enforcement agency, prosecuting or circuit
152 attorney, or the attorney general in determining whether a person required to register
153 under sections 589.400 to 589.425 has committed an offense that requires registration
154 under sections 589.400 to 589.425, or for use in a prosecution for committing an offense
155 requiring registration under sections 589.400 to 589.425; or

156 (f) Consideration by a court, law enforcement agency, prosecuting or circuit
157 attorney, or the attorney general for use in making determinations regarding charges,
158 plea offers, and sentencing, as applicable.

159 (12) The office of state courts administrator shall create a digital access portal of
160 all orders of expungement issued under this section. The portal shall allow users to
161 determine if an order for automated expungement has been granted in an individual's
162 name. The portal shall employ measures to prevent disclosure of any order to anyone
163 other than the individual for whom the order was issued.

164 4. Any court sentencing an individual for a clean slate eligible offense shall notify
165 the individual at the time of sentencing of the date when the individual's conviction may
166 become eligible for automated expungement provided the individual is not convicted of

167 any misdemeanor or felony, not including a violation of a traffic regulation, during the
168 time period specified for the underlying offense or offenses.

169 5. Any probation or parole office releasing an individual from supervision for a
170 clean slate eligible offense shall notify the individual at the time supervision is
171 discharged of the date when the individual's record or records may become eligible for
172 automated expungement provided the individual is not convicted of any misdemeanor
173 or felony, not including a violation of a traffic regulation, during the time period
174 specified for the underlying offense or offenses.

175 6. The provisions of this section shall apply retroactively to any arrest, charge,
176 trial, and conviction for which there is a digital record regardless of the date that the
177 arrest was made, the charge or charges were brought, the trial occurred, or the
178 conviction was entered.

179 7. Nothing in this section precludes an individual from filing a petition for
180 expungement of records under section 610.140 if an individual is eligible for an
181 automated expungement under this section if such an automated expungement has not
182 yet occurred or cannot occur pursuant to the provisions of this section.

183 8. Upon the occurrence of one of the circumstances provided under subdivision
184 (1) or (2) of this subsection, a conviction that was expunged under this section shall be
185 reinstated by the court as provided in this subsection.

186 (1) If it is determined that a conviction was improperly or erroneously expunged
187 because the conviction was not eligible to be expunged under this section, the court shall,
188 on its own motion, reinstate the conviction.

189 (2) Upon a motion by a person owed restitution or on its own motion, the court
190 shall reinstate a conviction that was expunged under this section for which the person
191 whose conviction was expunged was ordered to pay restitution if the court determines
192 that the person has not made a good-faith effort to pay the ordered restitution.

193 9. Upon the entry of an order under section 610.140, or upon the automated
194 expungement of a conviction under this section, the petitioner, for purposes of the law,
195 shall be considered not to have been previously convicted, except for purposes of the
196 following:

197 (1) The petitioner shall not be entitled to the remission of any fine, costs, or other
198 moneys paid as a consequence of a conviction that is expunged;

199 (2) This section shall not affect the right of the petitioner to rely upon the
200 conviction to bar subsequent proceedings for the same offense;

201 (3) This section shall not affect the right of a victim of an offense to bring or
202 defend a civil action for damages;

203 **(4) This section shall not create a right to commence an action for damages for**
204 **incarceration under the sentence that the petitioner served before the conviction is**
205 **expunged under this section;**

206 **(5) This section shall not relieve any obligation to pay restitution owed to the**
207 **victim of an offense nor shall such sections affect the jurisdiction of the convicting court**
208 **or the authority of any court order with regard to enforcing an order for restitution;**

209 **(6) A conviction, including any records relating to the conviction and any**
210 **records concerning a collateral action, that has been expunged under this section shall**
211 **not be used as evidence in an action for negligent hiring, admission, or licensure against**
212 **any person; or**

213 **(7) A conviction that is expunged under this section or section 610.140 may be**
214 **considered a prior conviction by a court, law enforcement agency, prosecuting attorney,**
215 **or the attorney general, as applicable, for purposes of charging a crime as a second or**
216 **subsequent offense or for sentencing under section 550.016.**

610.142. Beginning August 28, 2028, the office of state courts administrator shall
2 **report to the judiciary committees of the senate and house of representatives, or any**
3 **successor committees, the following on a yearly basis:**

4 **(1) The number of records expunged under subsection 2 of section 610.141, by**
5 **judicial circuit, with data aggregated by race, sex, age, circuit, county, and offense type**
6 **and level; and**

7 **(2) The number of records transmitted back to the office of state courts**
8 **administrator from the Missouri state highway patrol, any prosecuting agency, or any**
9 **circuit court on objection that the record is not eligible for automated expungement or**
10 **that the record does not match data held in the central repository, by judicial circuit,**
11 **with data aggregated by race, sex, age, county, and offense type and level.**

610.143. 1. A credit bureau may report records of arrests, indictments pending
2 **trial, and convictions of crimes for no longer than seven years from final disposition.**
3 **Records of arrests, indictments pending trial, and convictions of crimes shall no longer**
4 **be reported if at any time after a conviction it is learned that a full pardon or**
5 **expungement has been granted for that conviction, or at any time after an arrest or**
6 **indictment it is learned that a conviction did not result.**

7 **2. Any credit bureau or user of information that willfully fails to comply with**
8 **any requirement of this section with respect to any consumer is liable to that consumer**
9 **in an amount equal to:**

10 **(1) Any actual damages sustained by the consumer as a result of the failure;**

11 **(2) Punitive damages as the court may allow; and**

12 **(3) In the case of any successful action under this section, costs of the action and**
13 **reasonable attorney's fees as determined by the court.**

14 **3. Any credit bureau or user of information that is negligent in failing to comply**
15 **with any requirement of this section with respect to any consumer is liable to that**
16 **consumer in an amount equal to:**

17 **(1) Any actual damages sustained by the consumer as a result of the failure; and**

18 **(2) In the case of any successful action under this section, costs of the action and**
19 **reasonable attorney's fees as determined by the court.**

20 **4. Injunctive relief shall be available to any consumer aggrieved by a violation or**
21 **a threatened violation of this section regardless of whether the consumer seeks any other**
22 **remedy under this section.**

23 **5. An employer who employs or otherwise engages an individual whose criminal**
24 **history record has been expunged shall be immune from liability for any claim arising**
25 **out of the misconduct of the individual if the misconduct relates to the portion of the**
26 **criminal history record that has been expunged.**

610.144. 1. (1) There is hereby created in the state treasury the "Missouri
2 **Expungement Fund", which shall consist of moneys deposited into the fund from any**
3 **source including, but not limited to, gifts, donations, grants, and bequests. The state**
4 **treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180,**
5 **the state treasurer may approve disbursements. The fund shall be a dedicated fund and,**
6 **upon appropriation, moneys in this fund shall be used solely as provided in subsection 2**
7 **of this section.**

8 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
9 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
10 **general revenue fund.**

11 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
12 **other funds are invested. Any interest and moneys earned on such investments shall be**
13 **credited to the fund.**

14 **2. The department of public safety, the information technology services division**
15 **within the office of administration, and the office of state courts administrator shall**
16 **expend moneys from the fund, upon appropriation, only for one or more of the**
17 **following purposes:**

18 **(1) Implementation costs incurred under sections 610.141 to 610.143;**

19 **(2) System upgrades necessitated under sections 610.141 to 610.143; or**

20 **(3) Staffing needs necessitated under sections 610.141 to 610.143.**