

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 3068 & 3049, Page 7, Section 43.530,
2 Line 23, by inserting after said section and line the following:

3
4 "476.411. Beginning January 1, 2031, and each year thereafter, the office of state courts
5 administrator and the Missouri state highway patrol shall submit a report to the joint committee
6 on the justice system, the house judiciary committee or any successor committee, and the senate
7 judiciary and civil and criminal jurisprudence committee or any successor committee providing
8 statistical information for the prior year, arranged by judicial circuit and county, of:

9 (1) The number of clean slate eligible offenses as defined under section 610.141
10 identified by the Missouri state highway patrol under subsection 2 of section 610.141 and
11 transmitted to the courts;

12 (2) The number of identified clean slate eligible offenses to which a prosecuting attorney
13 filed an objection under subsection 3 of section 610.141; and

14 (3) The number of orders of expungement issued under section 610.141.

15
16 The data shall be aggregated by race, sex, age, circuit, county, and offense type and level if such
17 data is available."; and

18
19 Further amend said bill, Page 39, Section 589.417, Line 27, by inserting after said section and
20 line the following:

21 "610.141. 1. As used in this section, section 476.411, and sections 610.143 and 610.144,
22 unless the context otherwise indicates, the following terms mean:

23 (1) "Automated expungement", technology-assisted, state-initiated bulk expungement of
24 records in the manner established under this section;

25 (2) "Automated expungement technology", any information technology equipment,
26 software, systems, or services associated with automated expungement;

27 (3) "Automated expungement technology implementation date", the date on which
28 moneys are appropriated for an automated system or software designed to identify, review, and
29 process clean slate eligible offense records maintained by the Missouri state highway patrol for

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1 expungement or sealing without requiring manual initiation or oversight or July 1, 2029,
2 whichever occurs later;

3 (4) "Central repository", the Missouri state highway patrol central repository for
4 compiling and disseminating complete and accurate criminal history records;

5 (5) "Clean slate eligible offense", a misdemeanor or felony not listed under subsection 3
6 of section 610.140 for which an electronic record exists in the central repository;

7 (6) "Close" or "closed", to make records inaccessible to the general public and to all
8 individuals other than the defendant, except as provided under section 610.120 and chapter 43;

9 (7) "Expunge" or "expunged", to close an electronic record in the manner established
10 under section 610.120, provided that no agency, office, or entity shall be required to proactively
11 segregate, redact, or physically alter physical, paper, audio, or video files for the sole purpose of
12 complying with automated expungement obligations under this section if doing so would be
13 unduly burdensome, as long as such records are made inaccessible to the general public and to
14 all individuals other than the defendant, except as provided under section 610.120, chapter 43,
15 and subdivision (10) of subsection 3 of this section;

16 (8) "Final disposition", the date the person has completed his or her incarceration,
17 probation, or parole. In the event that the Missouri state highway patrol cannot determine a final
18 disposition based on data contained in the statewide court automation system and the central
19 repository, the Missouri state highway patrol may use the date a person's imposed sentence
20 would end, or, if the Missouri state highway patrol cannot determine an imposed sentence, it may
21 assume a person received a maximum sentence and use the end date of such a sentence as the
22 date of final disposition;

23 (9) "Petitioner", a person who has petitioned the court to have his or her conviction or
24 convictions expunged or a person whose conviction or convictions have been automatically
25 expunged under this section.

26 2. (1) Subject to the provisions in subsection 3 of this section, all electronic records and
27 files maintained in the central repository pertaining to clean slate eligible offenses shall be
28 expunged in the manner established under this section without the filing of a petition under
29 section 610.140 in the following cases, subject to the limitations contained in subdivisions (2),
30 (3), and (4) of this subsection:

31 (a) For misdemeanors, if one year has passed since final disposition and the individual
32 has not been convicted of any felony or misdemeanor criminal offense in Missouri during that
33 time;

34 (b) For felony offenses, if three years have passed since final disposition and the
35 individual has not been convicted of any felony or misdemeanor criminal offense in Missouri
36 during that time;

37 (c) For all of an individual's offenses, if the individual has attained sixty-five years of
38 age and has not been convicted of any misdemeanors or felonies in Missouri other than a

1 technical violation of the terms of his or her probation or parole in the ten immediately preceding
2 years; or

3 (d) All offenses for which the governor of Missouri has granted a full pardon.

4 (2) Records pertaining to juvenile adjudications are not eligible for automated
5 expungement.

6 (3) Records pertaining to any arrest, prosecution, or conviction of an offense under
7 chapters 301, 302, 303, 304, and 307 are not eligible for automated expungement.

8 (4) No offense shall be eligible for automated expungement if a person has charges
9 pending that have been filed in a Missouri state court for which an individual has not yet been
10 sentenced during the period of review for clean slate eligibility as described in subsection 3 of
11 this section.

12 (5) (a) An individual may be granted more than one expungement under this section,
13 except that during his or her lifetime the total number of offenses for which expungement can be
14 granted to the individual under this section or section 610.140 shall not exceed the following
15 limits:

16 a. No more than two felony offenses; and

17 b. No more than three misdemeanor offenses.

18 (b) If an individual's electronic record contains more felonies or misdemeanors than can
19 be expunged during the individual's lifetime under paragraph (a) of this subdivision, the
20 individual shall not be eligible for automated expungement under this section.

21 (c) For purposes of determining lifetime limits on expungement under this section:

22 a. If the offenses were charged as counts in the same case, all such offenses and
23 violations shall count as only the highest-level offense in that case for purposes of determining
24 lifetime limits on expungement under this section. However, if one or more counts in the same
25 indictment or information or conduct committed were a part of the same course of criminal
26 conduct as an offense listed in subsection 3 of section 610.140, the entire record shall not be
27 expunged under this section;

28 b. If the offenses were committed by an individual who has attained sixty-five years of
29 age and has not been convicted of any misdemeanors or felonies in the immediate ten preceding
30 years in Missouri, all clean slate eligible offenses shall be expunged; and

31 c. Only convictions contained within the central repository shall be considered when
32 determining eligibility under this section.

33 (d) The Missouri state highway patrol shall maintain records to ensure that a person has
34 not exceeded the limitations provided under this subsection. Nothing in this section shall be
35 construed to limit or impair the subsequent use of any record expunged under this section for the
36 purpose of any law enforcement or prosecutorial investigation or activity, including any arrest or
37 findings of guilt expunged under this section by a law enforcement agency, criminal justice

1 agency, prosecuting attorney, circuit attorney, or municipal prosecuting attorney, including its use
2 as a prior offense in a subsequent criminal or civil investigation or prosecution.

3 3. (1) Six months after the automated expungement technology implementation date,
4 and on a quarterly basis thereafter, the Missouri state highway patrol shall identify records that
5 have become eligible in the last quarter and transmit, or otherwise make accessible by electronic
6 means, to every prosecuting agency in the state all clean slate eligible offense records within one
7 hundred days of the record becoming eligible for automated expungement.

8 (2) Prior to six months after the automated expungement technology implementation
9 date, the Missouri state highway patrol shall identify records that would have been eligible for
10 automated expungement under subsection 2 of this section. Within twelve months after the
11 automated expungement technology implementation date, all such records shall be identified and
12 expunged in the manner and according to the time frames provided under this subsection. The
13 order of such records to be expunged shall be determined by the Missouri state highway patrol
14 and the office of state courts administrator.

15 (3) Delinquent court costs, fines, fees, or other sums ordered by a court, except
16 restitution owed to a victim of a crime, shall not be considered by the court, prosecuting agency,
17 or central repository when determining eligibility of a record for automated expungement under
18 subsection 2 of this section. However, the office of state courts administrator may seek a setoff
19 of any income tax refund and lottery prize payouts under section 488.5028 for all delinquent
20 court costs, fines, fees, or other sums ordered by a court relating to convictions expunged under
21 subsection 2 of this section.

22 (4) Each prosecuting agency in this state has no more than sixty days from the day on
23 which the notice described in subdivision (1) of this subsection is transmitted, or otherwise made
24 accessible by electronic means, to object to an automated expungement and transmit such
25 objection to the central repository. The prosecuting agency may object to the automated
26 expungement for any of the following reasons:

27 (a) After reviewing the prosecuting agency's record, the record does not meet the
28 definition of a clean slate eligible offense;

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

30 (c) The person has charges pending against them in another case in Missouri; or

31 (d) The prosecuting agency can furnish documentation that the person has felony or
32 misdemeanor charges pending against him or her in another state or has been convicted of a
33 felony or a misdemeanor in another state during the waiting periods established under
34 subdivision (1) of subsection 2 of this section.

35 (5) If a prosecuting agency objects for a reason described in subdivision (4) of this
36 subsection, within sixty days of the day on which the notice described in subdivision (1) of this
37 subsection is transmitted, or otherwise made accessible by electronic means, the record shall not
38 be expunged.

1 (6) If sixty days have passed without an objection from a prosecuting agency for one of
2 the reasons set forth under this subsection, the Missouri state highway patrol shall transmit, or
3 otherwise make accessible by electronic means, within fifteen days all the records to be
4 expunged to the office of state courts administrator for distribution to the circuit courts.

5 (7) Within fifteen days of receiving all records to be expunged from the Missouri
6 highway patrol, the office of state courts administrator shall transmit, or otherwise make
7 accessible by electronic means, copies of all records to be expunged to the circuit court.

8 (8) Within thirty days of receiving a notice to expunge, the circuit court shall enter an
9 order of expungement in the case record associated with the clean slate eligible offense being
10 expunged and shall transmit, or otherwise make accessible by electronic means, copies of all
11 orders for expungement that the court issues under this section to the office of state courts
12 administrator.

13 (9) Within thirty days of a copy being transmitted to the office of state courts
14 administrator, the office of state courts administrator shall provide notice of the order of
15 expungement to the prosecuting or circuit attorneys, the department of corrections, and the
16 Missouri state highway patrol. The Missouri state highway patrol shall notify law enforcement
17 agencies. Each entity that receives notice pursuant to this section, with the except of the office
18 of state courts administrator and the Missouri state highway patrol, shall consider such records
19 expunged, but are not required to proactively segregate, redact, or alter such record so long as
20 the records are made inaccessible to the general public and to all parties except as provided
21 under section 610.120, chapter 43, and subdivision (10) of this subsection. The office of state
22 courts administrator and the Missouri state highway patrol shall close records in the manner
23 established under section 610.120.

24 (10) (a) The Missouri state highway patrol shall retain a nonpublic record of the order
25 expunging a conviction or other notification regarding a conviction that was automatically
26 expunged under this section and of the record of the arrest, fingerprints, conviction, and sentence
27 of the person in the case to which the order or other notification applies. The nonpublic record
28 shall be made available only to the entities listed in subsection 1 of section 610.120 upon request
29 and only for the following purposes:

30 a. To show that a person who has filed a petition to expunge a conviction has previously
31 had a conviction expunged under this section;

32 b. The court's consideration in determining the sentence to be imposed upon conviction
33 for a subsequent offense that is punishable as a felony or by imprisonment for more than one
34 year;

35 c. Consideration by the governor if a person whose conviction has been expunged
36 applies for a pardon for another offense;

1 d. Consideration by the department of corrections or a law enforcement agency if a
2 person whose conviction has been expunged applies for employment with the department of
3 corrections or a law enforcement agency;

4 e. Consideration by the department of health and senior services for the purpose of
5 licensing and regulating facilities and regulating in-home services provider agencies and federal
6 agencies for purposes of criminal justice administration, criminal justice employment, child,
7 elderly, or disabled care;

8 f. Consideration by a court, law enforcement agency, prosecuting attorney, or the
9 attorney general in determining whether a person required to register under sections 589.400 to
10 589.425 has committed an offense that requires registration under sections 589.400 to 589.425,
11 or in prosecuting a person for committing an offense requiring registration under sections
12 589.400 to 589.425;

13 g. Consideration by a court, law enforcement agency, prosecuting attorney, or the
14 attorney general for use in making determinations regarding charges, plea offers, and sentencing,
15 as applicable;

16 h. Consideration by any entity responsible for issuing commercial driver's licenses for
17 the purpose of meeting state and federal requirements to obtain commercial driver's licenses; or

18 i. Consideration by the department of revenue, to the greatest extent possible, for the
19 purpose of identifying disqualifying offenses for drivers of commercial motor vehicles.

20 (b) A copy of the nonpublic record created under paragraph (a) of this subdivision may
21 be provided upon request to the person whose conviction is expunged under this section upon
22 payment of a fee determined and charged by the Missouri state highway patrol.

23 (c) The nonpublic record maintained under paragraph (a) of this subdivision is exempt
24 from disclosure under this chapter.

25 (d) An entity shall not be liable for damages or subject to criminal penalties for reporting
26 a public record of conviction that has been expunged by court order or operation of law prior to
27 six months after the automated expungement technology implementation date if that record was
28 available as a public record on the date of the report.

29 (e) The Missouri state highway patrol shall provide a consumer reporting agency with
30 information sufficient to accurately identify and delete records associated with the clean slate
31 eligible offense being expunged.

32 4. Any court sentencing an individual for a clean slate eligible offense shall provide the
33 individual a document outlining the state's clean slate expungement program at the time of
34 sentencing.

35 5. Any probation or parole office releasing an individual from supervision for a clean
36 slate eligible offense shall provide the individual a document outlining the state's clean slate
37 expungement program at the time of release.

1 6. The provisions of this section shall apply retroactively to any arrest, charge, trial, or
2 conviction for which there is an electronic record regardless of the date that the arrest was made,
3 the charge or charges were brought, the trial occurred, or the conviction was entered.

4 7. Nothing in this section precludes an individual from filing a petition for expungement
5 of records under section 610.140 if an individual is eligible for automated expungement under
6 this section but such automated expungement has not yet occurred or cannot occur.

7 8. Notwithstanding any provision of law to the contrary, the sole remedy for relief for
8 failure to expunge under this section shall be the filing of an expungement petition under section
9 610.140.

10 9. If it is determined that a conviction was improperly or erroneously expunged under
11 this section because the conviction was not eligible to be expunged under this section, the court
12 shall, on its own motion, reinstate the conviction.

13 10. (1) Upon the entry of an order under section 610.140, or upon the automated
14 expungement of a conviction under this section, the petitioner, for purposes of the law, is
15 considered not to have been previously convicted, except as provided under this subsection and
16 subsection 10 of section 610.140.

17 (2) The petitioner shall not be entitled to the remission of any fine, costs, or other
18 moneys paid as a consequence of a conviction that is expunged.

19 (3) This section shall not affect the right of the petitioner to rely upon the conviction to
20 bar subsequent proceedings for the same offense.

21 (4) This section shall not affect the right of a victim of an offense to bring or defend a
22 civil action for damages.

23 (5) This section shall not create a right to commence an action for damages for
24 incarceration under the sentence that the petitioner served before the conviction is expunged
25 under this section.

26 (6) This section shall not relieve any obligation to pay restitution owed to the victim of
27 an offense nor shall such section affect the jurisdiction of the convicting court or the authority of
28 any court order with regard to enforcing an order for restitution.

29 (7) A conviction, including any records relating to the conviction and any records
30 concerning a collateral action, that has been expunged under this section shall not be used as
31 evidence in an action for negligent hiring, admission, or licensure against any person.

32 (8) A conviction that is expunged under this section or section 610.140 may be
33 considered a prior conviction by a court, law enforcement agency, prosecuting attorney, or the
34 attorney general, as applicable, for purposes of charging a crime as a second or subsequent
35 offense or for sentencing under section 558.016.

36 11. The office of state courts administrator shall collaborate with the Missouri state
37 highway patrol to establish and implement data-sharing procedures regarding the information
38 required under this section.

1 12. Any person eligible for expungement under this section who has filed a petition for
2 expungement under section 610.140 shall be granted an expungement, subject to subsection 3 of
3 this section.

4 610.143. 1. Records of arrests, indictments pending trial, and convictions of crimes shall
5 no longer be reported if at any time after a conviction it is learned that a full pardon or
6 expungement has been granted for that conviction, or at any time after an arrest or indictment it
7 is learned that a conviction did not result.

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

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

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

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

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

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

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

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

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

28 6. A person granted an expungement shall disclose any expunged offense if the
29 disclosure of such information is necessary to complete any application for employment with
30 any:

31 (1) Federally insured bank or savings institution or credit union or an affiliate of such
32 institution or credit union for the purpose of compliance with 12 U.S.C. Section 1829 and 12
33 U.S.C. Section 1785; or

34 (2) Entity engaged in the business of insurance or any insurer for the purpose of
35 complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar law that
36 requires an employer engaged in the business of insurance to exclude applicants with certain
37 criminal convictions from employment.

1 610.144. 1. (1) There is hereby created in the state treasury the "Missouri Expungement
2 Fund", which shall consist of moneys appropriated to it by the general assembly and gifts,
3 donations, grants, and bequests. The state treasurer shall be custodian of the fund. In
4 accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.
5 The fund shall be a dedicated fund and, upon appropriation, moneys in this fund shall be used
6 solely as provided in subsection 2 of this section.

7 (2) The state treasurer shall invest moneys in the fund in the same manner as other funds
8 are invested. Any interest and moneys earned on such investments shall be credited to the fund.

9 2. The office of state courts administrator, the department of public safety, and the
10 information technology services division within the office of administration shall expend moneys
11 from the fund, upon appropriation, on the statewide court automation case management system
12 and the Missouri criminal history record information system established under sections 43.500 to
13 43.530 for one or more of the following purposes:

14 (1) Expenses that may be incurred to develop, establish, maintain, or operate any
15 information technology equipment, software, systems, or services associated with the
16 expungement or closing of records under Missouri law, including the development and
17 implementation of any technology-assisted, state-initiated bulk expungement or sealing of
18 records under Missouri law; or

19 (2) The cost of necessary personnel or contractors."; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.