

SECOND REGULAR SESSION

# HOUSE BILL NO. 2047

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE TERRY.

4180H.01I

JOSEPH ENGLER, Chief Clerk

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### AN ACT

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

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*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:

- 610.141. 1. As used in sections 610.140 to 610.146, the following terms mean:
- 2 (1) "Automated expungement", technology-assisted, state-initiated bulk closing  
3 of records in the manner established under section 610.120;
- 4 (2) "Central repository", the Missouri state highway patrol central repository  
5 for compiling and disseminating complete and accurate criminal history records;
- 6 (3) "Charges pending", charges for which an individual has not yet been  
7 sentenced;
- 8 (4) "Clean slate eligible offense", an infraction, misdemeanor, or felony not  
9 listed under subsection 3 of section 610.140 for which an electronic record exists;
- 10 (5) "Close" or "closed", to make records inaccessible to the general public and  
11 to all individuals other than the defendant, except as provided under section 610.120  
12 and chapter 43;
- 13 (6) "Expunge" or "expunged", to close a record in the manner established under  
14 section 610.120;
- 15 (7) "Final disposition", the date the person has completed his or her  
16 incarceration or probation and has satisfied all obligations, including the payment of  
17 any restitution, but not including the payment of outstanding fines or fees imposed by  
18 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, 2029, 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, 2029, 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 2026, shall be identified and expunged by August 28, 2031.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) This section shall not affect the right of a victim of an offense to bring or 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 558.016.

          610.142. Beginning August 28, 2029, 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.**