

SECOND REGULAR SESSION

HOUSE BILL NO. 2108

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHRISTOFANELLI.

4051H.011

DANA RADEMAN MILLER, 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:

**610.141. 1. As used in this section, section 610.140, and sections 610.142 to
2 610.144, unless the context otherwise indicates, the following terms mean:**

3 **(1) "Automated expungement", technology-assisted, state initiated bulk closing
4 of records in the manner established under section 610.120;**

5 **(2) "Central repository", the Missouri state highway patrol central repository
6 for compiling and disseminating complete and accurate criminal history records;**

7 **(3) "Charges pending", charges for which an individual has not yet been
8 sentenced in Missouri;**

9 **(4) "Clean slate eligible offense", an infraction, misdemeanor, or felony not
10 listed under subsection 2 of section 610.140 for which an electronic record exists;**

11 **(5) "Close" or "closed", to make records inaccessible to the general public and
12 to all individuals other than the defendant, except as provided under section 610.120
13 and chapter 43;**

14 **(6) "Expunge" or "expunged", to close a record in the manner established under
15 section 610.120;**

16 **(7) "Final disposition", the date the person has completed his or her
17 incarceration or probation and has satisfied all obligations, including the payment of**

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.

18 any restitution, but not including the payment of outstanding fines or fees imposed by
19 the court;

20 (8) "Traffic violation", a violation of the traffic regulations provided under
21 chapters 301, 302, 303, 304, and 307, excluding any violation resulting in a felony or
22 misdemeanor conviction.

23 2. (1) Beginning August 28, 2027, all records and files maintained in any
24 administrative or court proceeding in a municipal, associate, or circuit court pertaining
25 to clean slate eligible offenses shall be closed in the manner established under section
26 610.120 without the filing of a petition under section 610.140 in the following cases,
27 subject to the limitations contained in subdivisions (2), (3), and (4) of this subsection:

28 (a) For cases in which the imposition of sentence has been suspended, if an
29 individual has successfully completed probation, so long as one year has passed since
30 final disposition and the individual has not committed any felony or misdemeanor
31 criminal offense in Missouri other than a traffic violation during that time, provided
32 that the traffic violation has no authorized term of imprisonment;

33 (b) For infractions, municipal offenses, and misdemeanors, if one year has
34 passed since final disposition and the individual has not committed any felony or
35 misdemeanor criminal offense in Missouri other than a traffic violation during that
36 time, provided that the traffic violation has no authorized term of imprisonment;

37 (c) For felony offenses, if three years have passed since final disposition and the
38 individual has not committed any felony or misdemeanor criminal offense in Missouri
39 other than a traffic violation during that time, provided that the traffic violation has no
40 authorized term of imprisonment;

41 (d) For all of an individual's offenses, if the individual has attained sixty-five
42 years of age and has not been convicted of any misdemeanors or felonies in Missouri
43 other than a traffic violation in which the traffic violation has no authorized term of
44 imprisonment or a technical violation of the terms of his or her probation or parole in
45 the immediate ten preceding years; or

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

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

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

52 (4) (a) An individual may be granted more than one expungement under this
53 section, provided that during his or her lifetime the total number of offenses, violations,

54 or infractions for which expungement can be granted to the individual under this
55 section or section 610.140 shall not exceed the following limits:

56 a. No more than one felony offense; and

57 b. No more than two misdemeanor offenses or ordinance violations that have an
58 authorized term of imprisonment.

59 (b) An individual may be granted expungement under this section for any
60 number of infractions.

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

64 (d) For purposes of determining lifetime limits on expungement under this
65 section and section 610.140:

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

73 b. If the offenses or violations were committed by an individual who has reached
74 sixty-five years of age and has not been convicted of any misdemeanors or felonies other
75 than traffic violations that have no authorized terms of imprisonment in the immediate
76 ten preceding years, all clean slate eligible offenses shall be expunged.

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

85 3. (1) Beginning August 28, 2027, on a monthly basis, the office of state courts
86 administrator shall identify and transmit to the central repository and every
87 prosecuting agency in the state all clean slate eligible offense records within thirty
88 days of the record becoming eligible for automated expungement.

89 (2) Records that are eligible for expungement on or before August 28, 2024, shall
90 be identified and expunged before August 28, 2029.

91 **(3) Delinquent court costs, fines, fees, or other sums ordered by a court, except**
92 **restitution owed to a victim of a crime, shall not be considered by the office of state**
93 **courts administrator when determining expungement of a record without a petition**
94 **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 in Missouri.**

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

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

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

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

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

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

128 **(10) Once the transmitted records are expunged, the office of state courts**
129 **administrator shall provide notice to all state agencies maintaining official copies of the**
130 **records including, but not limited to, the appropriate circuit court clerk, the prosecuting**
131 **attorney, the arresting law enforcement agency or agencies, the department of**
132 **corrections, the central repository, and the department of revenue to expunge the**
133 **records within thirty days.**

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

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

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

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

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

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

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

161 **4. Any court sentencing an individual for a clean slate eligible offense shall notify**
162 **the individual at the time of sentencing of the date when the individual's conviction may**
163 **become eligible for automated expungement provided the individual is not convicted of**
164 **any misdemeanor or felony, not including a violation of a traffic violation with no**

165 authorized term of imprisonment, during the time period specified for the underlying
166 offense or offenses.

167 **5. Any probation or parole office releasing an individual from supervision for a**
168 **clean slate eligible offense shall notify the individual at the time supervision is**
169 **discharged of the date when the individual's record or records may become eligible for**
170 **automated expungement provided the individual is not convicted of any misdemeanor**
171 **or felony, not including a traffic violation with no authorized term of imprisonment,**
172 **during the time period specified for the underlying offense or offenses.**

173 **6. The provisions of this section shall apply retroactively to any conviction for**
174 **which there is a digital record regardless of the date that the conviction was entered.**

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

179 **8. (1) Upon the occurrence of one of the circumstances provided under**
180 **subdivision (2) or (3) of this subsection, a conviction that was expunged under this**
181 **section shall be reinstated by the court as provided in this subsection.**

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

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

189 **9. (1) Upon the entry of an order under section 610.140, or upon the automated**
190 **expungement of a conviction under this section, the petitioner, for purposes of the law, is**
191 **considered not to have been previously convicted, except as provided under this**
192 **subsection and subsection 10 of section 610.140.**

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

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

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

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

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

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

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

213 **(9) As used in this subsection, "petitioner" includes a person who has petitioned**
214 **the court to have his or her conviction or convictions expunged and a person whose**
215 **conviction or convictions have been automatically expunged under this section.**

610.142. Beginning August 28, 2027, 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 from the Missouri state highway patrol, a**
8 **prosecuting agency, or a circuit court back to the office of state courts administrator on**
9 **objection that the record is not eligible for automated expungement or that the record**
10 **does match data held in the central repository, by judicial circuit, with data aggregated**
11 **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; and**

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

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

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

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

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

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

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