

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 362
93RD GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 12, 2005, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

1070S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 610.123, RSMo, section 577.054 as enacted by house substitute for senate substitute for senate committee substitute for senate bills nos. 1233, 840, & 843, ninety-second general assembly, second regular session, and section 577.054 as enacted by house bill no. 3, eighty-fifth general assembly, first extraordinary session, and to enact in lieu thereof two new sections relating to expungement petitions.

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

Section A. Section 610.123, RSMo, section 577.054 as enacted by house substitute
2 for senate substitute for senate committee substitute for senate bills nos. 1233, 840, &
3 843, ninety-second general assembly, second regular session, and section 577.054 as
4 enacted by house bill no. 3, eighty-fifth general assembly, first extraordinary session, are
5 repealed and two new sections enacted in lieu thereof, to be known as sections 577.054
6 and 610.123, to read as follows:

577.054. 1. After a period of not less than ten years, an individual who has
2 pleaded guilty or has been convicted for a first alcohol-related driving offense which is
3 a misdemeanor or a county or city ordinance violation and which is not a conviction for
4 driving a commercial motor vehicle while under the influence of alcohol and who since
5 such date has not been convicted of any other alcohol-related driving offense may apply
6 to the court in which he or she pled guilty or was sentenced for an order to expunge from
7 all official records all recordations of his or her arrest, plea, trial or conviction. If the
8 court determines, after hearing, that such person has not been convicted of any
9 alcohol-related driving offense in the ten years prior to the date of the application for
10 expungement, and has no other alcohol-related enforcement contacts as defined in

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 section 302.525, RSMo, during that ten-year period, the court shall enter an order of
12 expungement **and the records and files maintained in any court proceeding**
13 **under this section shall be confidential and only available to the parties or**
14 **by order of court for good cause shown.** The effect of such order shall be to restore
15 such person to the status he or she occupied prior to such arrest, plea or conviction and
16 as if such event had never taken place. No person as to whom such order has been
17 entered shall be held thereafter under any provision of any law to be guilty of perjury
18 or otherwise giving a false statement by reason of his or her failure to recite or
19 acknowledge such arrest, plea, trial, conviction or expungement in response to any
20 inquiry made of him or her for any purpose whatsoever and no such inquiry shall be
21 made for information relating to an expungement under this section. A person shall only
22 be entitled to one expungement pursuant to this section. Nothing contained in this
23 section shall prevent the director from maintaining such records as to ensure that an
24 individual receives only one expungement pursuant to this section for the purpose of
25 informing the proper authorities of the contents of any record maintained pursuant to
26 this section.

27 2. The provisions of this section shall not apply to any individual who has been
28 issued a commercial driver's license or is required to possess a commercial driver's
29 license issued by this state or any other state.

[577.054. After a period of not less than ten years, an individual
2 who has pleaded guilty or has been convicted for a first alcohol-related
3 driving offense which is a misdemeanor or a county or city ordinance
4 violation and which is not a conviction for driving a commercial motor
5 vehicle while under the influence of alcohol and who since such date has
6 not been convicted of any other alcohol-related driving offense may apply
7 to the court in which he pled guilty or was sentenced for an order to
8 expunge from all official records all recordations of his arrest, plea, trial
9 or conviction. If the court determines, after hearing, that such person has
10 not been convicted of any alcohol-related driving offense in the ten years
11 prior to the date of the application for expungement, and has no other
12 alcohol-related enforcement contacts as defined in section 302.525, RSMo,
13 during that ten-year period, the court shall enter an order of
14 expungement. The effect of such order shall be to restore such person to
15 the status he occupied prior to such arrest, plea or conviction and as if
16 such event had never taken place. No person as to whom such order has
17 been entered shall be held thereafter under any provision of any law to be

18 guilty of perjury or otherwise giving a false statement by reason of his
19 failure to recite or acknowledge such arrest, plea, trial, conviction or
20 expungement in response to any inquiry made of him for any purpose
21 whatsoever and no such inquiry shall be made for information relating to
22 an expungement under this section. A person shall only be entitled to one
23 expungement pursuant to this section. Nothing contained in this section
24 shall prevent the director from maintaining such records as to ensure that
25 an individual receives only one expungement pursuant to this section for
26 the purpose of informing the proper authorities of the contents of any
27 record maintained pursuant to this section.]

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant
2 to section 610.122 may file a verified petition for expungement in the civil division of the
3 circuit court in the county of the arrest as provided in subsection 4 of this section. The
4 petition shall include the following information or shall be dismissed if the information
5 is not given:

6 (1) The petitioner's:

7 (a) Full name;

8 (b) Sex;

9 (c) Race;

10 (d) Date of birth;

11 (e) Driver's license number;

12 (f) Social Security number; and

13 (g) Address at the time of the arrest;

14 (2) The offense charged against the petitioner;

15 (3) The date the petitioner was arrested;

16 (4) The name of the county where the petitioner was arrested and if the arrest
17 occurred in a municipality, the name of the municipality;

18 (5) The name of the agency that arrested the petitioner;

19 (6) The case number and court of the offense;

20 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing
21 a petition to expunge a record that will be forwarded to the central repository for the sole
22 purpose of positively identifying the petitioner.

23 2. The petition shall name as defendants all law enforcement agencies, courts,
24 prosecuting attorneys, central state depositories of criminal records or others who the
25 petitioner has reason to believe may possess the records subject to expungement. The
26 court's order shall not affect any person or entity not named as a defendant in the action.

27 3. The court shall set a hearing on the matter no sooner than thirty days from
28 the filing of the petition and shall give reasonable notice of the hearing to each official
29 or agency or other entity named in the petition.

30 4. If the court finds that the petitioner is entitled to expungement of any record
31 that is the subject of the petition, it shall enter an order directing expungement **and the**
32 **records and files maintained in any court proceeding under this section shall**
33 **be confidential and only available to the parties or by order of court for good**
34 **cause shown.** A copy of the order shall be provided to each agency identified in the
35 petition pursuant to subsection 2 of this section.

36 5. The supreme court shall promulgate rules establishing procedures for the
37 handling of cases filed pursuant to the provisions of this section and section
38 610.122. Such procedures shall be similar to the procedures established in chapter 482,
39 RSMo, for the handling of small claims.

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