

SECOND REGULAR SESSION

HOUSE BILL NO. 1323

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), MIMS, OTTO,
CURTIS AND COLONA (Co-sponsors).

4125L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 488.650 and 610.140, RSMo, and to enact in lieu thereof two new sections relating to petitions to expunge certain criminal records.

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

Section A. Sections 488.650 and 610.140, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 488.650 and 610.140, to read as follows:

488.650. There shall be assessed as costs a surcharge in the amount of **[one] five** hundred dollars on all petitions for expungement filed under the provisions of section 610.140. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the general revenue fund.

610.140. 1. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was found guilty of any of the offenses specified in subsection 2 of this section for an order to expunge recordations of such arrest, plea, trial, or conviction. A person may apply to have one or more offenses expunged so long as such person lists all the offenses he or she is seeking to have expunged in the same petition and so long as all such offenses are eligible under subsection 2 of this section.

2. The following offenses are eligible to be expunged when such offenses occurred within the state of Missouri and were prosecuted under the jurisdiction of a Missouri municipal associate or circuit 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.

10 (1) Any felony [or misdemeanor] offense of passing a bad check under 570.120,
11 fraudulently stopping payment of an instrument under 570.125, or fraudulent use of a credit
12 device or debit device under section 570.130; **or**

13 (2) Any **nonviolent** misdemeanor offense [of sections 569.065, 569.067, 569.090,
14 subdivision (1) of subsection 1 of section 569.120, sections 569.140, 569.145, 572.020, 574.020,
15 or 574.075; or

16 (3) Any class B or C misdemeanor offense of section 574.010] , **except any offense that**
17 **requires registration under sections 589.400 to 589.426.**

18 3. The petition shall name as defendants all law enforcement agencies, courts,
19 prosecuting or circuit attorneys, central state repositories of criminal records, or others who the
20 petitioner has reason to believe may possess the records subject to expungement for each of the
21 offenses listed in the petition. The court's order of expungement shall not affect any person or
22 entity not named as a defendant in the action.

23 4. The petition shall be dismissed if it does not include the following information:

24 (1) The petitioner's:

25 (a) Full name;

26 (b) Sex;

27 (c) Race;

28 (d) Driver's license number, if applicable; and

29 (e) Current address;

30 (2) Each offense charged against the petitioner for which the petitioner is requesting
31 expungement;

32 (3) The date the petitioner was arrested for each offense;

33 (4) The name of the county where the petitioner was arrested for each offense and if any
34 of the offenses occurred in a municipality, the name of the municipality for each offense;

35 (5) The name of the agency that arrested the petitioner for each offense;

36 (6) The case number and name of the court for each offense; and

37 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition
38 for expungement which will be forwarded to the central repository for the sole purpose of
39 positively identifying the petitioner.

40 5. The court may set a hearing on the matter no sooner than thirty days from the filing
41 of the petition and shall give reasonable notice of the hearing to each entity named in the petition.
42 At the hearing, the court may accept evidence and hear testimony on, and may consider, the
43 following criteria for each of the offenses listed in the petition for expungement:

44 (1) It has been at least twenty years if the offense is a felony, or at least [ten] **five** years
45 if the offense is a misdemeanor, municipal offense, or infraction, since the person making the
46 application completed:

47 (a) Any sentence of imprisonment; or

48 (b) Any period of probation or parole;

49 (2) The person has not been found guilty of a misdemeanor or felony, not including
50 violations of the traffic regulations provided under chapters 304 and 307, during the time period
51 specified for the underlying offense in subdivision (1) of this subsection;

52 (3) The person has paid any amount of restitution ordered by the court;

53 (4) The circumstances and behavior of the petitioner warrant the expungement; and

54 (5) The expungement is consistent with the public welfare.

55 6. If the court determines at the conclusion of the hearing that such person meets all the
56 criteria set forth in subsection 5 of this section for each of the offenses listed in the petition for
57 expungement, the court may enter an order of expungement. A copy of the order shall be
58 provided to each entity named in the petition, and, upon receipt of the order, each entity shall
59 destroy any record in its possession relating to any offense listed in the petition. If destruction
60 of the record is not feasible because of the permanent nature of the record books, such record
61 entries shall be blacked out. Entries of a record ordered expunged shall be removed from all
62 electronic files maintained with the state of Missouri, except for the files of the court. The
63 records and files maintained in any administrative or court proceeding in a municipal, associate,
64 or circuit court for any offense ordered expunged under this section shall be confidential and only
65 available to the parties or by order of the court for good cause shown. The central repository
66 shall request the Federal Bureau of Investigation to expunge the records from its files.

67 7. The order shall not limit any of the petitioner's rights that were restricted as a collateral
68 consequence of such person's criminal record, and such rights shall be restored upon issuance
69 of the order of expungement. Except as otherwise provided under this section, the effect of such
70 order shall be to restore such person to the status he or she occupied prior to such arrests, pleas,
71 trials, or convictions as if such events had never taken place. No person as to whom such order
72 has been entered shall be held thereafter under any provision of law to be guilty of perjury or
73 otherwise giving a false statement by reason of his or her failure to recite or acknowledge such
74 arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her
75 and no such inquiry shall be made for information relating to an expungement, except the
76 petitioner shall disclose the expunged offense to any court when asked or upon being charged
77 with any subsequent offense. The expunged offense may be considered a prior offense in
78 determining a sentence to be imposed for any subsequent offense that the person is found guilty
79 of committing.

80 8. Notwithstanding the provisions of subsection 7 of this section to the contrary, a person
81 granted an expungement shall disclose any expunged offense when the disclosure of such
82 information is necessary to complete any application for:

83 (1) A license, certificate, or permit issued by this state to practice such individual's
84 profession;

85 (2) Any license issued under chapter 313; or

86 (3) Paid or unpaid employment with an entity licensed under chapter 313, any
87 state-operated lottery, or any emergency services provider, including any law enforcement
88 agency.

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90 Notwithstanding any provision of law to the contrary, an expunged offense shall not be grounds
91 for automatic disqualification of an applicant, but may be a factor for denying employment, or
92 a professional license, certificate, or permit.

93 9. If the court determines that such person has not met the criteria for any of the offenses
94 listed in the petition for expungement, the court shall enter an order dismissing the petition. Any
95 person whose petition for expungement has been dismissed by the court for failure to meet the
96 criteria set forth in subsection 5 of this section may not refile another petition until a year has
97 passed since the date of filing for the previous petition.

98 10. A person may be granted more than one expungement under this section provided
99 that no person shall be granted more than one order of expungement from the same court.
100 Nothing contained in this section shall prevent the court from maintaining records to ensure that
101 an individual has only one petition for expungement granted by such court under this section.

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