

SECOND REGULAR SESSION

# HOUSE BILL NO. 2193

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MAY.

5289H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to expungement of records due to identity theft or mistaken identity.

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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 one new section, to be known as section 610.145, to read as follows:

**610.145. 1. (1) If a person is named in a charge for an infraction or a crime, either a misdemeanor or a felony, as a result of another person using the identifying information of the named person or mistaken identity and a finding of not guilty is entered, or the conviction is set aside, the named person may apply by petition or written motion to the court where the charge was last pending on a form approved by the office of state courts administrator supplied by the clerk of the court for an order to expunge from all official records any entries relating to the person's apprehension, charge, or trial. The court, after notice to the prosecuting attorney, shall hold a hearing on the motion or petition and, upon finding that the person's identity was used without permission and the charges were dismissed or the person was found not guilty, the court shall order the expungement.**

**(2) If any person is named in a charge for an infraction or a crime, either a misdemeanor or a felony, as a result of another person using the identifying information of the named person or mistaken identity, and the charge against the named person is dismissed, the prosecutor or other judicial officer who ordered the dismissal shall provide notice to the court of the dismissal, and the court shall order the expungement of all official records containing any entries relating to the person's apprehension, charge, or trial.**

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.

17           **2. No person as to whom such an order has been entered under this section shall**  
18 **be held thereafter under any provision of law to be guilty of perjury, or to be guilty of**  
19 **otherwise giving a false statement or response to any inquiry made for any purpose, by**  
20 **reason of the person's failure to recite or acknowledge any expunged entries concerning**  
21 **apprehension, charge, or trial.**

22           **3. The court shall also order that such entries shall be expunged from the records**  
23 **of the court and direct all law enforcement agencies, the department of corrections, the**  
24 **department of revenue, or any other state or local government agency identified by the**  
25 **petitioner, or the person eligible for automatic expungement under subdivision (2) of**  
26 **subsection 1 of this section, as bearing record of the same to expunge their records of the**  
27 **entries. The clerk shall notify state and local agencies of the court's order. The costs of**  
28 **expunging the records, as provided in this chapter, shall not be taxed against the person**  
29 **eligible for expungement under this section.**

30           **4. The department of revenue shall expunge from its records entries made as a**  
31 **result of the charge or conviction ordered expunged under this section. The department**  
32 **of revenue shall also reverse any administrative actions taken against a person whose**  
33 **record is expunged under this section as a result of the charges or convictions expunged,**  
34 **including the assessment of the driver's license points and driver's license suspension or**  
35 **revocation. Notwithstanding any other provision of this chapter, the department of**  
36 **revenue shall provide to the person whose motor vehicle record is expunged under this**  
37 **section a certified corrected driver history at no cost and shall reinstate at no cost any**  
38 **driver's license suspended or revoked as a result of a charge or conviction expunged under**  
39 **this section.**

40           **5. The department of corrections and any other applicable state or local**  
41 **government agency shall expunge its records. The agency shall also reverse any**  
42 **administrative actions taken against a person whose record is expunged under this section**  
43 **as a result of the charges or convictions expunged. Notwithstanding any other provision**  
44 **of law, the normal fee for any reinstatement of a license or privilege resulting under this**  
45 **section shall be waived.**

46           **6. Any insurance company that charged any additional premium based on**  
47 **insurance points assessed against a policyholder as a result of a charge or conviction that**  
48 **was expunged under this section shall refund such additional premiums to the policyholder**  
49 **upon notification of the expungement.**

50           **7. For purposes of this section, the term "mistaken identity" means the erroneous**  
51 **arrest of a person for a crime as a result of misidentification by a witness or law**  
52 **enforcement, confusion on the part of a witness or law enforcement as to the identity of the**

53 **person who committed the crime, misinformation provided to law enforcement as to the**  
54 **identity of the person who committed the crime, or some other mistake on the part of a**  
55 **witness or law enforcement as to the identity of the person who committed the crime.**

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