

HCS HB 341 -- MARIJUANA-RELATED EXPUNGEMENT (Hicks)

COMMITTEE OF ORIGIN: Special Committee on Criminal Justice

This bill specifies that prior to releasing criminal history information to a noncriminal justice agency, certain information must be redacted, as specified in the bill (Section 430.508, RSMo).

The bill provides that an individual who has been free from a felony conviction for more than 10 years may petition the court where the conviction occurred, for access to his or her criminal record be limited as specified in the bill. The offense must have a maximum penalty of no more than five years.

There are specific convictions and certain individuals for which limited access to criminal records will not be granted. The bill establishes which types of records will be subject to limited access, and provides that, upon petition of a prosecuting attorney to the court where a conviction occurred, a court will vacate an order for limited access granted under these provisions if the court determines that the order was erroneously entered.

An individual will not be required or requested to disclose information about his or her criminal history record that has been provided limited access, subject to exceptions in the bill. This shall not apply if federal law requires the consideration of an applicant's criminal history for purposes of employment. A record subject to limited access, in these provisions, shall not be considered a conviction that will prohibit the employment of a person under any law that prohibits employment based on state convictions.

This bill specifies that no state agency may disclose to the federal government the statewide list of persons who have obtained a medical marijuana card. Any violation of this provision will be a class E felony (Sections 191.255 and 610.078-160.090).

The bill specifies that the Department of Health and Senior Services must notify a person who obtains a patient ID card under Article 16, Section 1 of the Missouri Constitution that he or she may be eligible to have any marijuana-related misdemeanor offenses or municipal violations expunged if such offense or violation occurred in Missouri prior to the issuance of the patient ID card and was prosecuted under the jurisdiction of a Missouri Associate Circuit or Circuit Court or a municipal court, so long as all marijuana possession-related offenses or municipal violations to be expunged are listed on the petition for expungement completed by the department. The court shall enter an order of expungement of records related to the marijuana possession-related offenses or

municipal violations if, after the hearing, the court determines that the above requirements are satisfied.

Upon granting the order of expungement, the records and files maintained in any court proceeding in an associate or circuit division of the circuit court or in municipal court shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such individual to the status he or she occupied prior to such arrest, plea, or conviction and as if such event had never taken place. The expungement provisions exclude commercial driver's license holders or offenses committed by a person while operating a commercial motor vehicle.

Additionally, individuals are currently entitled to have two misdemeanors expunged, but this bill specifies that offenses or ordinance violations related to marijuana possession will have no limit (Section 610.132).