

FIRST REGULAR SESSION

HOUSE BILL NO. 75

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CURLS (Sponsor) AND NASHEED (Co-sponsor).

0427L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 488 and 610, RSMo, by adding thereto 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. Chapters 488 and 610, RSMo, are amended by adding thereto two new sections, 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 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 he or she plead guilty or was found guilty of any of the offenses specified in subsection 2 of this section for an order to expunge from all official records all recordations of his or her 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 that occurred within the state of Missouri, and were prosecuted under the jurisdiction of a Missouri municipal court or associate or circuit court, are eligible to be expunged:

- (1) All nonviolent felony crimes;**
- (2) Any misdemeanor offense;**

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.

13 **(3) Any municipal offense; and**

14 **(4) Any traffic offense.**

15 **3. The court may order expungement under this section only when the following**
16 **criteria are met for each of the offenses listed in the petition for expungement:**

17 **(1) At least eight years has elapsed since the person making the application has**
18 **completed:**

19 **(a) His or her imprisonment, if sentenced to jail or prison;**

20 **(b) His or her period of probation, if placed on probation; or**

21 **(c) His or her parole, if placed on parole; and**

22 **(2) The person has not been convicted of a misdemeanor or felony, or been placed**
23 **on probation for a misdemeanor or felony during the eight-year period specified in**
24 **subdivision (1) of this subsection. For purposes of this paragraph, any moving traffic**
25 **violations shall not be considered.**

26 **4. If the court determines, after hearing, that such person meets all the criteria set**
27 **forth in subsection 3 of this section for each of the offenses listed in the petition for**
28 **expungement the court shall enter an order of expungement. If the court determines that**
29 **such person has not met the criteria for any of the offenses listed in the petition for**
30 **expungement the court shall enter an order dismissing the petition. Any person whose**
31 **petition for expungement has been dismissed by the court for failure to meet the criteria**
32 **set forth in subsection 3 of this section may refile such petition as soon as all the criteria has**
33 **been met for each of the offenses listed in the petition.**

34 **5. Upon granting of the order of expungement, the records and files maintained in**
35 **any administrative or court proceeding in a municipal court, an associate circuit or circuit**
36 **court division of the circuit court for any offense ordered expunged under this section shall**
37 **be confidential and only available to the parties or by order of the court for good cause**
38 **shown. The effect of such order shall be to restore such person to the status he or she**
39 **occupied prior to such arrests, pleas, trials, or convictions and as if such events had never**
40 **taken place. No person as to whom such order has been entered shall be held thereafter**
41 **under any provision of law to be guilty of perjury or otherwise giving a false statement by**
42 **reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions,**
43 **or expungement in response to any inquiry made of him or her for any purpose whatsoever**
44 **and no such inquiry shall be made for information relating to an expungement under this**
45 **section.**

46 **6. Any person who wishes to have a record of arrests, pleas, trials, or convictions**
47 **expunged under the provisions of this section may file a verified petition for expungement**
48 **in the civil division of the circuit court in any county where at least one of the arrests, pleas,**

49 trials, or convictions occurred as provided in subsection 1 of this section. The petition shall
50 include the following information or shall be dismissed if the information is not given:

51 (1) The petitioner's:

52 (a) Full name;

53 (b) Sex;

54 (c) Race;

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

56 (e) Social Security number; and

57 (f) Current address;

58 (2) Each offense charged against the petitioner for which the petitioner is
59 requesting expungement;

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

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

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

65 (6) The case number and court for each offense;

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

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

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

77 9. If the court finds that the petitioner is entitled to expungement it shall enter an
78 order directing expungement. A copy of the order shall be provided to each agency
79 identified in the petition under the provisions of subsection 7 of this section.

80 10. The supreme court shall promulgate rules establishing procedures for the
81 handling of cases filed under the provisions of this section. Such procedures shall be
82 similar to the procedures established in chapter 482 for the handling of small claims.

83 **11. Nothing contained in this section shall prevent the court from maintaining such**
84 **records as to ensure that an individual has only one petition for expungement granted**
85 **under this section.**

86 **12. A surcharge of five hundred dollars shall be assessed and collected on all**
87 **petitions for expungement filed under the provisions of this section as provided for in**
88 **section 488.650.**

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