

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

# HOUSE BILL NO. 1344

96TH GENERAL ASSEMBLY

4798L.04P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to closure of certain criminal records.

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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  
2 known as section 610.108, to read as follows:

**610.108. 1. Notwithstanding any other provision of law and subject to the**  
2 **provisions of this section, any person who meets the criteria described in this section may**  
3 **make a motion to the court in which such person pled guilty or was found guilty of any of**  
4 **the offenses specified in subsection 2 of this section for closure of all official records**  
5 **pertaining to the case, including all recordations of such person's arrest, plea, trial, or**  
6 **conviction. A person may apply to have all official records of one or more offenses closed**  
7 **so long as such person lists all the offenses for which they are seeking to have the official**  
8 **records closed in the same petition and so long as all such offenses are eligible under**  
9 **subsection 2 of this section.**

10 **2. The following offenses are eligible to have all official records closed:**

11 **(1) Any violation of prostitution under section 567.020;**

12 **(2) Any misdemeanor or felony violation of chapter 195 not involving possession**  
13 **or use of a weapon; except that, any felony committed by a commercial driver's license**  
14 **holder under chapter 195 shall not qualify for closure under this section; and**

15 **(3) All municipal ordinance violations and misdemeanor offenses, with the**  
16 **following exceptions:**

17 **(a) Driving while intoxicated under section 577.010;**

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.

- 18           **(b) Driving with excessive blood alcohol content under section 577.012;**  
19           **(c) Any misdemeanor violation of chapter 566 or any other misdemeanor sexual**  
20 **offense;**  
21           **(d) Any violation of an order of protection issued under chapter 455;**  
22           **(e) Any misdemeanor violation of section 568.050;**  
23           **(f) Any misdemeanor violation of section 568.052;**  
24           **(g) Any misdemeanor offense requiring registration under section 589.400; and**  
25           **(h) Any municipal traffic ordinance violation or misdemeanor traffic offense**  
26 **committed by a holder of a commercial driver's license regardless of what type of vehicle**  
27 **the offense is committed in.**

28           **3. The court may order all official records closed under this section only when the**  
29 **following criteria are met for each of the offenses listed in the petition for closure:**

30           **(1) At least five years has elapsed since the person making the application has**  
31 **completed:**

- 32           **(a) His or her imprisonment, if sentenced to jail or prison;**  
33           **(b) His or her period of probation, if placed on probation; or**  
34           **(c) His or her parole, if placed on parole; and**

35           **(2) The person has not been convicted of a misdemeanor or felony, or been placed**  
36 **on probation for a misdemeanor or felony during the five-year period specified in**  
37 **subdivision (1) of this subsection; and**

38           **(3) The person has not had any other petition for closure of all official records**  
39 **granted under the provisions of this section.**

40           **4. If the court determines, after hearing, that such person meets all the criteria set**  
41 **forth in subsection 3 of this section for each of the offenses listed in the petition for closure**  
42 **the court shall enter an order of closure of all official records. If the court determines that**  
43 **such person has not met the criteria for any of the offenses listed in the petition for closure**  
44 **of all official records the court shall enter an order dismissing the petition. Any person**  
45 **whose petition for closure of all official records has been dismissed by the court for failure**  
46 **to meet the criteria set forth in subsection 3 of this section may refile such petition as soon**  
47 **as all the criteria have been met for each of the offenses listed in the petition.**

48           **5. (1) Upon granting of the order of closure, the records and files maintained in**  
49 **any administrative or court proceeding in an associate circuit or circuit court division of**  
50 **the circuit court for any offense ordered closed under this section shall be confidential and**  
51 **only available to the parties or by order of the court for good cause shown, or to any**  
52 **federal, state, or local law enforcement agency for purposes of criminal investigations or**

53 any federal, state, or local prosecutor for purposes of criminal prosecutions. Such records  
54 shall be admissible in a court of law for criminal prosecution of cases.

55 (2) Except in accordance with subdivision (1) of this subsection for criminal  
56 investigations and criminal prosecutions:

57 (a) The effect of such order shall be to restore such person to the status he or she  
58 occupied prior to such arrests, pleas, trials, or convictions; and

59 (b) No person as to whom such order has been entered shall be held thereafter to  
60 be guilty of perjury or otherwise giving a false statement by reason of his or her failure to  
61 recite or acknowledge such arrests, pleas, trials, convictions, or closure of all official  
62 records in response to any inquiry made of him or her and no such inquiry shall be made  
63 for information relating to the closure of official records under this section.

64 6. Any person who wishes to have a record of arrests, pleas, trials, or convictions  
65 closed under this section may file a verified petition for closure in the civil division of the  
66 circuit court in any county where at least one of the arrests, pleas, trials, or convictions  
67 occurred as provided in subsection 1 of this section. The petition shall include the  
68 following information or shall be dismissed if the following information is not given:

69 (1) The petitioner's:

70 (a) Full name;

71 (b) Sex;

72 (c) Race;

73 (d) Date of birth;

74 (e) Driver's license number;

75 (f) Social Security number; and

76 (g) Address at the time of the arrest for each offense listed in the petition;

77 (2) Each offense charged against the petitioner for which the petitioner is  
78 requesting the closure of all official records;

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

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

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

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

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

88           **7. The petition shall name as defendants all law enforcement agencies, courts,**  
89 **prosecuting attorneys, central state repositories of criminal records, or others who the**  
90 **petitioner has reason to believe may possess the records subject to closure for each of the**  
91 **offenses listed in the petition. The court's order of closure of all official records shall not**  
92 **affect any person or entity not named as a defendant in the action.**

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

96           **9. If the court finds that the petitioner is entitled to closure of all official records**  
97 **it shall enter an order directing closure. A copy of the order shall be provided to each**  
98 **agency identified in the petition under the provisions of subsection 7 of this section.**

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

102           **11. Nothing contained in this section shall prevent the court from maintaining such**  
103 **records as to ensure that an individual has only one petition for closure granted under this**  
104 **section.**

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