

SECOND REGULAR SESSION

# HOUSE BILL NO. 1645

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FISHER.

5010L.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 610.123, RSMo, and to enact in lieu thereof two new sections relating to expungement.

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

Section A. Section 610.123, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 610.123 and 610.146, to read as follows:

610.123. 1. Any person who wishes to have a record of arrest expunged pursuant to section 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection [4] **6** of this section.

2. **Any person who wishes to have a record of a misdemeanor expunged under section 610.146 may file a verified petition for expungement in the civil division of the circuit court in the county where such person was convicted.**

3. The petition shall include the following information or shall be dismissed if the information is not given:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

(d) Date of birth;

(e) Driver's license number;

(f) Social Security number; and

(g) Address at the time of the arrest;

(2) The offense charged against the petitioner;

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 (3) The date the petitioner was arrested;
- 19 (4) The name of the county where the petitioner was arrested and if the arrest occurred  
20 in a municipality, the name of the municipality;
- 21 (5) The name of the agency that arrested the petitioner;
- 22 (6) The case number and court of the offense;
- 23 (7) **The date of conviction; if any**
- 24 (8) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition  
25 to expunge a record that will be forwarded to the central repository for the sole purpose of  
26 positively identifying the petitioner.

27 [2.] 4. The petition shall name as defendants all law enforcement agencies, courts,  
28 prosecuting attorneys, central state depositories of criminal records or others who the petitioner  
29 has reason to believe may possess the records subject to expungement. The court's order shall  
30 not affect any person or entity not named as a defendant in the action.

31 [3.] 5. The court shall set a hearing on the matter no sooner than thirty days from the  
32 filing of the petition and shall give reasonable notice of the hearing to each official or agency or  
33 other entity named in the petition.

34 [4.] 6. If the court finds that the petitioner is entitled to expungement of any record that  
35 is the subject of the petition, it shall enter an order directing expungement. Upon granting of the  
36 order of expungement, the records and files maintained in any administrative or court proceeding  
37 in an associate or circuit division of the circuit court under this section shall be confidential and  
38 only available to the parties or by order of the court for good cause shown. A copy of the order  
39 shall be provided to each agency identified in the petition pursuant to subsection [2] 4 of this  
40 section.

41 [5.] 7. The supreme court shall promulgate rules establishing procedures for the handling  
42 of cases filed pursuant to the provisions of this section and [section] **sections 610.122 and**  
43 **610.146**. Such procedures shall be similar to the procedures established in chapter 482 for the  
44 handling of small claims.

**610.146. 1. After a period of not less than eight years, an individual who has**  
2 **pleaded guilty to or has been convicted of a misdemeanor and who since such date has not**  
3 **been convicted of any other misdemeanor or felony offense may apply to the court in which**  
4 **he or she pled guilty or was sentenced for an order to expunge from all official records all**  
5 **recordations of his or her arrest, plea, trial or conviction. If the court determines, after**  
6 **hearing, that such person has not been convicted of any subsequent misdemeanor or felony**  
7 **offense and has no other misdemeanor or felony charges pending at the time of the hearing**  
8 **on the application, the court shall enter an order of expungement. Upon granting of the**  
9 **order of expungement, the records and files maintained in any administrative or court**

10 proceeding in an associate or circuit division of the circuit court under this section shall be  
11 confidential and only available to the parties or by order of the court for good cause shown.  
12 The effect of such order shall be to restore such person to the status he or she occupied  
13 prior to such arrest, plea or conviction and as if such event had never taken place. No  
14 person as to whom such order has been entered shall be held thereafter under any  
15 provision of any law to be guilty of perjury or otherwise giving a false statement by reason  
16 of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or  
17 expungement in response to any inquiry made of him or her for any purpose whatsoever  
18 and no such inquiry shall be made for information relating to an expungement under this  
19 section. A person shall only be entitled to one expungement pursuant to this section.  
20 Nothing contained in this section shall prevent the director of revenue or the court from  
21 maintaining such records as to ensure that an individual receives only one expungement  
22 pursuant to this section for the purpose of informing the proper authorities of the contents  
23 of any record maintained pursuant to this section.

24           2. The provisions of this section shall not apply to any offense covered under the  
25 provisions of section 577.054.

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