

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 762, Page 1, in the Title, Line 3, by
2 deleting all of said line and inserting in lieu thereof the words "public safety."; and

3
4 Further amend said bill, Page 4, Section 610.100, Line 110, by inserting immediately after all of said
5 section the following:

6
7 "610.140. 1. Notwithstanding any other provision of law and subject to the provisions of
8 this section, any person may apply to any court in which such person was found guilty of any of the
9 offenses specified in subsection 2 of this section for an order to expunge recordations of such arrest,
10 plea, trial, or conviction. A person may apply to have one or more offenses expunged so long as
11 such person lists all the offenses he or she is seeking to have expunged in the same petition and so
12 long as all such offenses are eligible under subsection 2 of this section.

13 2. The following offenses are eligible to be expunged when such offenses occurred within
14 the state of Missouri and were prosecuted under the jurisdiction of a Missouri municipal associate or
15 circuit court:

16 (1) Any felony or misdemeanor offense of passing a bad check under 570.120, fraudulently
17 stopping payment of an instrument under 570.125, or fraudulent use of a credit device or debit
18 device under section 570.130;

19 (2) Any misdemeanor offense of sections 569.065, 569.067, 569.090, subdivision (1) of
20 subsection 1 of section 569.120, sections 569.140, 569.145, 572.020, 574.020, or 574.075; [or]

21 (3) Any class B or C misdemeanor offense of section 574.010; or

22 (4) Any felony or misdemeanor offense involving marijuana or marijuana drug
23 paraphernalia under chapter 195 until December 31, 2016, and under chapter 579 beginning January
24 1, 2017, committed within three years prior to the passage of a constitutional amendment or other
25 statutory enactment legalizing marijuana. However, if a person's record is expunged under this
26 subdivision, such person shall pay a fine in the amount of two hundred dollars which shall be paid to
27 the drug court resources fund under section 478.009 for drug treatment programming. If the
28 constitutional amendment or statute legalizing marijuana contains an age limitation, this subdivision
29 shall not apply to any person who committed an offense under this subdivision if such person was
30 under such age limitation at the time the offense was committed.

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

36 4. The petition shall be dismissed if it does not include the following information:

Action Taken _____ Date _____

Action Taken _____ Date _____

- 1 (1) The petitioner's:
 - 2 (a) Full name;
 - 3 (b) Sex;
 - 4 (c) Race;
 - 5 (d) Driver's license number, if applicable; and
 - 6 (e) Current address;
- 7 (2) Each offense charged against the petitioner for which the petitioner is requesting
8 expungement;
- 9 (3) The date the petitioner was arrested for each offense;
- 10 (4) The name of the county where the petitioner was arrested for each offense and if any of
11 the offenses occurred in a municipality, the name of the municipality for each offense;
- 12 (5) The name of the agency that arrested the petitioner for each offense;
- 13 (6) The case number and name of the court for each offense; and
- 14 (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition for
15 expungement which will be forwarded to the central repository for the sole purpose of positively
16 identifying the petitioner.

17 5. The court may set a hearing on the matter no sooner than thirty days from the filing of the
18 petition and shall give reasonable notice of the hearing to each entity named in the petition. At the
19 hearing, the court may accept evidence and hear testimony on, and may consider, the following
20 criteria for each of the offenses listed in the petition for expungement:

21 (1) It has been at least twenty years if the offense is a felony, or at least ten years if the
22 offense is a misdemeanor, municipal offense, or infraction, since the person making the application
23 completed:

- 24 (a) Any sentence of imprisonment; or
- 25 (b) Any period of probation or parole;
- 26 (2) The person has not been found guilty of a misdemeanor or felony, not including
27 violations of the traffic regulations provided under chapters 304 and 307, during the time period
28 specified for the underlying offense in subdivision (1) of this subsection;
- 29 (3) The person has paid any amount of restitution ordered by the court;
- 30 (4) The circumstances and behavior of the petitioner warrant the expungement; and
- 31 (5) The expungement is consistent with the public welfare.

32 6. If the court determines at the conclusion of the hearing that such person meets all the
33 criteria set forth in subsection 5 of this section for each of the offenses listed in the petition for
34 expungement, the court may enter an order of expungement. A copy of the order shall be provided
35 to each entity named in the petition, and, upon receipt of the order, each entity shall destroy any
36 record in its possession relating to any offense listed in the petition. If destruction of the record is
37 not feasible because of the permanent nature of the record books, such record entries shall be blacked
38 out. Entries of a record ordered expunged shall be removed from all electronic files maintained with
39 the state of Missouri, except for the files of the court. The records and files maintained in any
40 administrative or court proceeding in a municipal, associate, or circuit court for any offense ordered
41 expunged under this section shall be confidential and only available to the parties or by order of the
42 court for good cause shown. The central repository shall request the Federal Bureau of Investigation
43 to expunge the records from its files.

44 7. The order shall not limit any of the petitioner's rights that were restricted as a collateral
45 consequence of such person's criminal record, and such rights shall be restored upon issuance of the
46 order of expungement. Except as otherwise provided under this section, the effect of such order
47 shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or
48 convictions as if such events had never taken place. No person as to whom such order has been

1 entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving
2 a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials,
3 convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall
4 be made for information relating to an expungement, except the petitioner shall disclose the
5 expunged offense to any court when asked or upon being charged with any subsequent offense. The
6 expunged offense may be considered a prior offense in determining a sentence to be imposed for any
7 subsequent offense that the person is found guilty of committing.

8 8. Notwithstanding the provisions of subsection 7 of this section to the contrary, a person
9 granted an expungement shall disclose any expunged offense when the disclosure of such
10 information is necessary to complete any application for:

11 (1) A license, certificate, or permit issued by this state to practice such individual's
12 profession;

13 (2) Any license issued under chapter 313; or

14 (3) Paid or unpaid employment with an entity licensed under chapter 313, any state-operated
15 lottery, or any emergency services provider, including any law enforcement agency.

16 Notwithstanding any provision of law to the contrary, an expunged offense shall not be grounds for
17 automatic disqualification of an applicant, but may be a factor for denying employment, or a
18 professional license, certificate, or permit.

19 9. If the court determines that such person has not met the criteria for any of the offenses
20 listed in the petition for expungement, the court shall enter an order dismissing the petition. Any
21 person whose petition for expungement has been dismissed by the court for failure to meet the
22 criteria set forth in subsection 5 of this section may not refill another petition until a year has passed
23 since the date of filing for the previous petition.

24 10. A person may be granted more than one expungement under this section provided that no
25 person shall be granted more than one order of expungement from the same court. Nothing
26 contained in this section shall prevent the court from maintaining records to ensure that an individual
27 has only one petition for expungement granted by such court under this section.

28 Section B. The provisions of section 610.140 shall be contingent upon the passage of a
29 constitutional amendment or other statutory enactment legalizing marijuana."; and

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.