

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 341

100TH GENERAL ASSEMBLY

0681H.03P

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 610.100 and 610.140, RSMo, and to enact in lieu thereof twelve new sections relating to expungement, with a penalty provision.

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

Section A. Sections 610.100 and 610.140, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 43.508, 191.255, 610.078, 610.080, 610.082, 610.084, 610.086, 610.088, 610.090, 610.100, 610.132, and 610.140, to read as follows:

**43.508. 1. Except as provided in subsection 2 of this section and notwithstanding any other provision of law, prior to the dissemination of criminal history information to a noncriminal justice agency, all information relating to a conviction, and the arrest, indictment, or other information leading thereto, that is the subject of a court order for limited access as provided in section 610.078 or all information relating to a conviction or nonconviction final disposition, and the arrest, indictment, or other information leading to the arrest or indictment, that is subject to a court order for limited access as provided for in section 610.080 shall be omitted.**

**2. Subsection 1 of this section shall not apply if the request is made under a court order:**

**(1) In a case for child custody or protection from abuse; or**

**(2) By an employer against whom a claim of civil liability has been brought, as described under section 610.088, for purposes of defending against a claim of civil liability.**

**3. Subsection 1 of this section shall not apply:**

**(1) To the verification of information provided by an applicant if federal law, including rules and regulations promulgated by a self-regulatory organization that has**

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.

17 been created under federal law, requires the consideration of an applicant's criminal  
18 history for purposes of employment; or

19 (2) To the verification of information provided to the supreme court, or an entity  
20 of the supreme court, in its capacity to govern the practice, procedure, and conduct of all  
21 courts, the admission to the bar, the practice of law, the administration of all courts, and  
22 supervision of all officers of the judicial branch.

191.255. 1. Notwithstanding any other provision of law to the contrary, no state  
2 agency shall disclose to the federal government the statewide list of persons who have  
3 obtained a medical marijuana card.

4 2. Any violation of this section is a class E felony.

610.078. 1. Subject to the exceptions in subsection 2 of this section and  
2 notwithstanding any other provision of law, upon petition of a person who has been free  
3 from conviction for a period of ten years for an offense punishable by one or more years  
4 in prison and has completed each court-ordered financial obligation of the sentence, the  
5 court where the conviction occurred may enter an order that criminal history record  
6 information maintained by a criminal justice agency pertaining to a qualifying offense that  
7 carries a maximum penalty of no more than five years be disseminated only to a criminal  
8 justice agency; upon its request, to the department of social services in the performance of  
9 duties relating to children and youth; or as provided in subsections 2 and 3 of section  
10 43.508.

11 2. An order for limited access under subsection 1 of this section shall not be granted  
12 for any of the following:

13 (1) A conviction for an offense punishable by more than two years in prison that  
14 is any of the following or an attempt or a conspiracy or solicitation to commit any of the  
15 following:

16 (a) An offense involving murder or manslaughter, infanticide, assault, or  
17 kidnapping under chapter 565;

18 (b) Any offense under chapter 566;

19 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking  
20 in children under chapter 568; or

21 (d) An offense involving a firearm or other dangerous weapon under chapter 571;  
22 or

23 (2) An individual who:

24 (a) Has been convicted of murder, any felony in the first degree, or an offense  
25 punishable by imprisonment of twenty years or more;

26 (b) Has been convicted within the previous twenty years of:

27           a. A felony or an offense punishable by imprisonment of seven or more years  
28 involving:

29           (i) An offense involving murder or manslaughter, infanticide, assault, or  
30 kidnapping under chapter 565;

31           (ii) Any offense under chapter 566;

32           (iii) An offense of bigamy, incest, endangering the welfare of a child, or trafficking  
33 in children under chapter 568; or

34           (iv) An offense involving a firearm or other dangerous weapon under chapter 571;  
35 or

36           b. Four or more offenses punishable by imprisonment of two or more years; or

37           (c) Has been convicted within the previous fifteen years of:

38           a. Two or more offenses punishable by more than two years in prison; or

39           b. Any sexual offense under chapter 566.

610.080. 1. The following shall be subject to limited access:

2           (1) Subject to the exceptions under section 610.082 or if a court has vacated an  
3 order for limited access under section 610.084, criminal history record information  
4 pertaining to a conviction of a nonviolent offense or a nonsexual offense if a person has  
5 been free from conviction for ten years for any offense punishable by imprisonment of one  
6 or more years and if completion of each court-ordered financial obligation of the sentence  
7 has occurred; or

8           (2) Criminal history record information pertaining to charges that resulted in a  
9 final disposition other than a conviction.

10           2. (1) On a monthly basis, the Missouri office of state courts administrator shall  
11 transmit to the Missouri state highway patrol's central repository the record of any  
12 conviction eligible for limited access under subdivision (1) of subsection 1 of this section.

13           (2) The office of state courts administrator shall transmit to the Missouri state  
14 highway patrol's central repository the record of charges subject to limited access under  
15 subdivision (2) of subsection 1 of this section within thirty days after entry of the  
16 disposition and payment of each court-ordered financial obligation.

17           (3) If the Missouri state highway patrol's central repository determines through a  
18 validation process that a record transmitted is not eligible for limited access relief under  
19 subsection 1 of this section or does not match data held in the central repository, the  
20 Missouri state highway patrol shall notify the office of state courts administrator of such  
21 determination within thirty days of receiving the information.

22           (4) Upon the expiration of the thirty-day period under subdivision (3) of this  
23 subsection, the office of state courts administrator shall remove from the list of eligible

24 records any record for which the office of state courts administrator received a notification  
25 of ineligibility or nonmatch with central repository data.

26 (5) Monthly, each court shall issue an order for limited access for any record in its  
27 judicial circuit for which no notification of ineligibility was received by the office of state  
28 courts administrator.

29 3. A criminal history record that is the subject of an order for limited access under  
30 this section shall be made available to a noncriminal justice agency only as provided in  
31 subsections 2 and 3 of section 43.508 or, upon request, to the department of social services  
32 in the performance of duties relating to children and youth.

610.082. 1. Limited access to records under subdivision (1) of subsection 1 of  
2 section 610.080 shall not be granted for any of the following:

3 (1) A conviction for any of the following or an attempt, conspiracy, or solicitation  
4 to commit any of the following:

5 (a) An offense involving murder or manslaughter, infanticide, assault, or  
6 kidnapping under chapter 565;

7 (b) Any offense under chapter 566;

8 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking  
9 in children under chapter 568;

10 (d) An offense involving a firearm or other dangerous weapon under chapter 571;  
11 or

12 (e) An offense of animal abuse or neglect under chapter 578; or

13 (2) An individual who, at any time, has been convicted of:

14 (a) A felony;

15 (b) Two or more offenses punishable by imprisonment of more than two years; or

16 (c) Four or more offenses punishable by imprisonment of one or more years.

17 2. Limited access under this section shall not apply to an otherwise qualifying  
18 conviction if a conviction for an offense punishable by imprisonment of five or more years  
19 or an offense enumerated in subsection 1 of this section arose out of the same case.

20 3. Nothing in this section shall preclude the filing of a petition for limited access  
21 under section 610.078 if limited access is available under that section.

610.084. 1. Upon petition of the prosecuting attorney to the court where a  
2 conviction occurred, and with notice to the defendant and opportunity to be heard, the  
3 court shall vacate an order for limited access granted under section 610.080 if the court  
4 determines that the order was erroneously entered and not in accordance with section  
5 610.080.

6           **2. Upon conviction of a defendant of a misdemeanor or felony offense and upon a**  
7 **filing of a motion by the prosecuting attorney, the court shall enter an order vacating any**  
8 **prior order for limited access pertaining to a record of the defendant, except under**  
9 **subdivision (2) of subsection 1 of section 610.080.**

10           **3. An order under subsection 1 or 2 of this section shall be transmitted to the**  
11 **central repository of the Missouri state highway patrol.**

**610.086. 1. (1) Except if requested or required by a criminal justice agency, or if**  
2 **disclosure to noncriminal justice agencies is authorized or required by section 43.508, an**  
3 **individual shall not be required or requested to disclose information about the individual's**  
4 **criminal history record that has been provided limited access under section 610.078 or**  
5 **section 610.080. An individual required or requested to provide information in violation**  
6 **of this section may respond as if the offense did not occur.**

7           **(2) This subsection shall not apply if federal law, including rules and regulations**  
8 **promulgated by a self-regulatory organization that has been created under federal law,**  
9 **requires the consideration of an applicant's criminal history for purposes of employment.**

10           **2. A record subject to limited access under section 610.078 or 610.080 shall not be**  
11 **considered a conviction that would prohibit the employment of a person under any law of**  
12 **this state or under federal laws that prohibit employment based on state convictions to the**  
13 **extent permitted by federal law.**

**610.088. An employer who employs or otherwise engages an individual whose**  
2 **criminal history record to which limited access has been applied under section 610.078 or**  
3 **610.080 shall be immune from liability for any claim arising out of the misconduct of the**  
4 **individual if the misconduct relates to the portion of the criminal history record that has**  
5 **been provided limited access.**

**610.090. The official records pertaining to a case in which limited access has been**  
2 **granted under section 610.078 or 610.080 shall be considered closed records.**

**610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases**  
2 **shall mean:**

3           **(1) "Arrest", an actual restraint of the person of the defendant, or by his or her**  
4 **submission to the custody of the officer, under authority of a warrant or otherwise for a criminal**  
5 **violation which results in the issuance of a summons or the person being booked;**

6           **(2) "Arrest report", a record of a law enforcement agency of an arrest and of any**  
7 **detention or confinement incident thereto together with the charge therefor;**

8           **(3) "Inactive", an investigation in which no further action will be taken by a law**  
9 **enforcement agency or officer for any of the following reasons:**

10           **(a) A decision by the law enforcement agency not to pursue the case;**

11 (b) Expiration of the time to file criminal charges pursuant to the applicable statute of  
12 limitations, or ten years after the commission of the offense; whichever date earliest occurs;

13 (c) Finality of the convictions of all persons convicted on the basis of the information  
14 contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such  
15 persons;

16 (4) "Incident report", a record of a law enforcement agency consisting of the date, time,  
17 specific location, name of the victim and immediate facts and circumstances surrounding the  
18 initial report of a crime or incident, including any logs of reported crimes, accidents and  
19 complaints maintained by that agency;

20 (5) "Investigative report", a record, other than an arrest or incident report, prepared by  
21 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in  
22 response to an incident report or in response to evidence developed by law enforcement officers  
23 in the course of their duties;

24 (6) "Mobile video recorder", any system or device that captures visual signals that is  
25 capable of installation and being installed in a vehicle or being worn or carried by personnel of  
26 a law enforcement agency and that includes, at minimum, a camera and recording capabilities;

27 (7) "Mobile video recording", any data captured by a mobile video recorder, including  
28 audio, video, and any metadata;

29 (8) "Nonpublic location", a place where one would have a reasonable expectation of  
30 privacy, including, but not limited to a dwelling, school, or medical facility.

31 2. (1) Each law enforcement agency of this state, of any county, and of any municipality  
32 shall maintain records of all incidents reported to the agency, investigations and arrests made by  
33 such law enforcement agency. All incident reports and arrest reports shall be open records.

34 (2) Notwithstanding any other provision of law other than the provisions of subsections  
35 4, 5 and 6 of this section or section 320.083, mobile video recordings and investigative reports  
36 of all law enforcement agencies are closed records until the investigation becomes inactive.

37 (3) If any person is arrested and not charged with an offense against the law within thirty  
38 days of the person's arrest, the arrest report shall thereafter be a closed record except that the  
39 disposition portion of the record may be accessed and except as provided in section 610.120.

40 (4) Except as provided in subsections 3 and 5 of this section, a mobile video recording  
41 that is recorded in a nonpublic location is authorized to be closed, except that any person who  
42 is depicted in the recording or whose voice is in the recording, a legal guardian or parent of such  
43 person if he or she is a minor, a family member of such person within the first degree of  
44 consanguinity if he or she is deceased or incompetent, an attorney for such person, or insurer of  
45 such person, upon written request, may obtain a complete, unaltered, and unedited copy of a  
46 recording under and pursuant to this section.

47           3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a  
48 record or document of a law enforcement officer or agency, other than an arrest report, which  
49 would otherwise be open, contains information that is reasonably likely to pose a clear and  
50 present danger to the safety of any victim, witness, undercover officer, or other person; or  
51 jeopardize a criminal investigation, including records which would disclose the identity of a  
52 source wishing to remain confidential or a suspect not in custody; or which would disclose  
53 techniques, procedures or guidelines for law enforcement investigations or prosecutions, that  
54 portion of the record shall be closed and shall be redacted from any record made available  
55 pursuant to this chapter.

56           4. Any person, including a legal guardian or a parent of such person if he or she is a  
57 minor, family member of such person within the first degree of consanguinity if such person is  
58 deceased or incompetent, attorney for a person, [ø] insurer of a person, **or creditor with a**  
59 **secured interest in the property**, involved in any incident or whose property is involved in an  
60 incident, may obtain any records closed pursuant to this section or section 610.150 for purposes  
61 of investigation of any civil claim or defense, as provided by this subsection. Any individual,  
62 legal guardian or parent of such person if he or she is a minor, his or her family member within  
63 the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney  
64 or insurer, involved in an incident or whose property is involved in an incident, upon written  
65 request, may obtain a complete unaltered and unedited incident report concerning the incident,  
66 and may obtain access to other records closed by a law enforcement agency pursuant to this  
67 section. Within thirty days of such request, the agency shall provide the requested material or  
68 file a motion pursuant to this subsection with the circuit court having jurisdiction over the law  
69 enforcement agency stating that the safety of the victim, witness or other individual cannot be  
70 reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such  
71 motion, the court finds for the law enforcement agency, the court shall either order the record  
72 closed or order such portion of the record that should be closed to be redacted from any record  
73 made available pursuant to this subsection.

74           5. (1) Any person may bring an action pursuant to this section in the circuit court having  
75 jurisdiction to authorize disclosure of a mobile video recording or the information contained in  
76 an investigative report of any law enforcement agency, which would otherwise be closed  
77 pursuant to this section. The court may order that all or part of a mobile video recording or the  
78 information contained in an investigative report be released to the person bringing the action.

79           (2) In making the determination as to whether information contained in an investigative  
80 report shall be disclosed, the court shall consider whether the benefit to the person bringing the  
81 action or to the public outweighs any harm to the public, to the law enforcement agency or any

82 of its officers, or to any person identified in the investigative report in regard to the need for law  
83 enforcement agencies to effectively investigate and prosecute criminal activity.

84 (3) In making the determination as to whether a mobile video recording shall be  
85 disclosed, the court shall consider:

86 (a) Whether the benefit to the person bringing the action or the benefit to the public  
87 outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any  
88 person identified in the mobile video recording in regard and with respect to the need for law  
89 enforcement agencies to effectively investigate and prosecute criminal activity;

90 (b) Whether the mobile video recording contains information that is reasonably likely  
91 to disclose private matters in which the public has no legitimate concern;

92 (c) Whether the mobile video recording is reasonably likely to bring shame or  
93 humiliation to a person of ordinary sensibilities; and

94 (d) Whether the mobile video recording was taken in a place where a person recorded  
95 or depicted has a reasonable expectation of privacy.

96 (4) The mobile video recording or investigative report in question may be examined by  
97 the court in camera.

98 (5) If the disclosure is authorized in whole or in part, the court may make any order that  
99 justice requires, including one or more of the following:

100 (a) That the mobile video recording or investigative report may be disclosed only on  
101 specified terms and conditions, including a designation of the time or place;

102 (b) That the mobile video recording or investigative report may be had only by a method  
103 of disclosure other than that selected by the party seeking such disclosure and may be disclosed  
104 to the person making the request in a different manner or form as requested;

105 (c) That the scope of the request be limited to certain matters;

106 (d) That the disclosure occur with no one present except persons designated by the court;

107 (e) That the mobile video recording or investigative report be redacted to exclude, for  
108 example, personally identifiable features or other sensitive information;

109 (f) That a trade secret or other confidential research, development, or commercial  
110 information not be disclosed or be disclosed only in a designated way.

111 (6) The court may find that the party seeking disclosure of the mobile video recording  
112 or the investigative report shall bear the reasonable and necessary costs and attorneys' fees of  
113 both parties, unless the court finds that the decision of the law enforcement agency not to open  
114 the mobile video recording or investigative report was substantially unjustified under all relevant  
115 circumstances, and in that event, the court may assess such reasonable and necessary costs and  
116 attorneys' fees to the law enforcement agency.

117           6. Any person may apply pursuant to this subsection to the circuit court having  
118 jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest  
119 reports being unlawfully closed pursuant to this section. If the court finds by a preponderance  
120 of the evidence that the law enforcement officer or agency has knowingly violated this section,  
121 the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars.  
122 If the court finds that there is a knowing violation of this section, the court may order payment  
123 by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the  
124 court finds by a preponderance of the evidence that the law enforcement officer or agency has  
125 purposely violated this section, the officer or agency shall be subject to a civil penalty in an  
126 amount up to five thousand dollars and the court shall order payment by such officer or agency  
127 of all costs and attorney fees, as provided in section 610.027. The court shall determine the  
128 amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the  
129 offense, and whether the law enforcement officer or agency has violated this section previously.

130           7. The victim of an offense as provided in chapter 566 may request that his or her  
131 identity be kept confidential until a charge relating to such incident is filed.

132           8. Any person who requests and receives a mobile video recording that was recorded in  
133 a nonpublic location under and pursuant to this section is prohibited from displaying or  
134 disclosing the mobile video recording, including any description or account of any or all of the  
135 mobile video recording, without first providing direct third-party notice to each person not  
136 affiliated with a law enforcement agency or each non-law enforcement agency individual whose  
137 image or sound is contained in the recording, and affording, upon receiving such notice, each  
138 person appearing and whose image or sound is contained in the mobile video recording no less  
139 than ten days to file and serve an action seeking an order from a court of competent jurisdiction  
140 to enjoin all or some of the intended display, disclosure, description, or account of the recording.  
141 Any person who fails to comply with the provisions of this subsection is subject to damages in  
142 a civil action proceeding.

**610.132. 1. (1) The department of health and senior services shall notify an  
2 individual who obtains a patient identification card under Article XIV, Section 1 of the  
3 Constitution of Missouri that he or she may be eligible to have any offense or municipal  
4 violation relating to the possession of marijuana expunged if the offense or violation  
5 occurred within the state of Missouri prior to the issuance of a patient identification card  
6 and was prosecuted under the jurisdiction of a Missouri associate circuit or circuit court  
7 or a municipal court, so long as all offenses or municipal violations relating to the  
8 possession of marijuana to be expunged are listed on the petition for expungement.**

**9           (2) The department shall, on the application for a patient identification card,  
10 provide all information necessary to file any necessary petition for expungement.**

11           **2. If the court determines, after hearing, that an individual has been issued a**  
12 **patient identification card, the offense or municipal violation seeking to be expunged is**  
13 **related to the possession of marijuana, and such offense or violation occurred within the**  
14 **state of Missouri prior to the issuance of the patient identification card, the court shall**  
15 **enter an order for expungement.**

16           **3. A petition for expungement under this section may be made at any time,**  
17 **provided such offense or violation occurred within the state of Missouri prior to the**  
18 **issuance of a patient identification card.**

19           **4. Upon granting of the order of expungement, the records and files maintained in**  
20 **any court proceeding in an associate or circuit division of the circuit court or in municipal**  
21 **court under this section shall be confidential and only available to the parties or by order**  
22 **of the court for good cause shown. The effect of such order shall be to restore such**  
23 **individual to the status he or she occupied prior to such arrest, plea, or conviction and as**  
24 **if such event had never taken place. No individual as to whom such order has been entered**  
25 **shall be held thereafter under any provision of any law to be guilty of perjury or otherwise**  
26 **giving a false statement by reason of his or her failure to recite or acknowledge such arrest,**  
27 **plea, trial, conviction, or expungement in response to any inquiry made of him or her for**  
28 **any purpose and no such inquiry shall be made for information relating to an**  
29 **expungement under this section.**

30           **5. The provisions of this section shall not be construed to authorize expungement**  
31 **of any conviction or plea of guilty for any offense committed by a commercial driver's**  
32 **license holder that shall result in a violation of 49 CFR 384.226, as amended, or an offense**  
33 **committed by a person while operating a commercial motor vehicle in violation of 49 CFR**  
34 **391.15.**

610.140. 1. Notwithstanding any other provision of law and subject to the provisions  
2 of this section, any person may apply to any court in which such person was charged or found  
3 guilty of any offenses, violations, or infractions for an order to expunge records of such arrest,  
4 plea, trial, or conviction. Subject to the limitations of subsection 12 of this section, a person may  
5 apply to have one or more offenses, violations, or infractions expunged if such offense, violation,  
6 or infraction occurred within the state of Missouri and was prosecuted under the jurisdiction of  
7 a Missouri municipal, associate circuit, or circuit court, so long as such person lists all the  
8 offenses, violations, and infractions he or she is seeking to have expunged in the petition and so  
9 long as all such offenses, violations, and infractions are not excluded under subsection 2 of this  
10 section. If the offenses, violations, or infractions were charged as counts in the same indictment  
11 or information or were committed as part of the same course of criminal conduct, the person may  
12 include all the related offenses, violations, and infractions in the petition, regardless of the limits

13 of subsection 12 of this section, and the petition shall only count as a petition for expungement  
14 of the highest level violation or offense contained in the petition for the purpose of determining  
15 future eligibility for expungement.

16 2. The following offenses, violations, and infractions shall not be eligible for  
17 expungement under this section:

18 (1) Any class A felony offense;

19 (2) Any dangerous felony as that term is defined in section 556.061;

20 (3) Any offense that requires registration as a sex offender;

21 (4) Any felony offense where death is an element of the offense;

22 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault;  
23 or felony offense of kidnapping;

24 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478,  
25 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,  
26 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,  
27 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045,  
28 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,  
29 569.060, 569.065, 569.067, 569.072, 569.100, 569.160, 570.025, 570.030, 570.090, 570.100,  
30 570.130, 570.180, 570.223, 570.224, 570.310, 571.020, 571.060, 571.063, 571.070, 571.072,  
31 571.150, 574.070, 574.105, 574.115, 574.120, 574.130, 575.040, 575.095, 575.153, 575.155,  
32 575.157, 575.159, 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, 575.350, 575.353,  
33 577.078, 577.703, 577.706, 578.008, 578.305, 578.310, or 632.520;

34 (7) Any offense eligible for expungement under section 577.054 [e] , 610.130, **or**  
35 **610.132**;

36 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or  
37 any offense of operating an aircraft with an excessive blood alcohol content or while in an  
38 intoxicated condition;

39 (9) Any ordinance violation that is the substantial equivalent of any offense that is not  
40 eligible for expungement under this section;

41 (10) Any violation of any state law or county or municipal ordinance regulating the  
42 operation of motor vehicles when committed by an individual who has been issued a commercial  
43 driver's license or is required to possess a commercial driver's license issued by this state or any  
44 other state; and

45 (11) Any offense of section 571.030, except any offense under subdivision (1) of  
46 subsection 1 of section 571.030 where the person was convicted or found guilty prior to January  
47 1, 2017.

48           3. The petition shall name as defendants all law enforcement agencies, courts,  
49 prosecuting or circuit attorneys, municipal prosecuting attorneys, central state repositories of  
50 criminal records, or others who the petitioner has reason to believe may possess the records  
51 subject to expungement for each of the offenses, violations, and infractions listed in the petition.  
52 The court's order of expungement shall not affect any person or entity not named as a defendant  
53 in the action.

54           4. The petition shall include the following information:

55           (1) The petitioner's:

56           (a) Full name;

57           (b) Sex;

58           (c) Race;

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

60           (e) Current address;

61           (2) Each offense, violation, or infraction for which the petitioner is requesting  
62 expungement;

63           (3) The approximate date the petitioner was charged for each offense, violation, or  
64 infraction; and

65           (4) The name of the county where the petitioner was charged for each offense, violation,  
66 or infraction and if any of the offenses, violations, or infractions occurred in a municipality, the  
67 name of the municipality for each offense, violation, or infraction; and

68           (5) The case number and name of the court for each offense.

69           5. The clerk of the court shall give notice of the filing of the petition to the office of the  
70 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the  
71 offenses, violations, or infractions listed in the petition. If the prosecuting attorney, circuit  
72 attorney, or municipal prosecuting attorney objects to the petition for expungement, he or she  
73 shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon  
74 by the parties, the court shall hold a hearing within sixty days after any written objection is filed,  
75 giving reasonable notice of the hearing to the petitioner. If no objection has been filed within  
76 thirty days after receipt of service, the court may set a hearing on the matter and shall give  
77 reasonable notice of the hearing to each entity named in the petition. At any hearing, the court  
78 may accept evidence and hear testimony on, and may consider, the following criteria for each of  
79 the offenses, violations, or infractions listed in the petition for expungement:

80           (1) At the time the petition is filed, it has been at least seven years if the offense is a  
81 felony, or at least three years if the offense is a misdemeanor, municipal offense, or infraction,  
82 from the date the petitioner completed any authorized disposition imposed under section 557.011  
83 for each offense, violation, or infraction listed in the petition;

84 (2) The person has not been found guilty of any other misdemeanor or felony, not  
85 including violations of the traffic regulations provided under chapters 304 and 307, during the  
86 time period specified for the underlying offense, violation, or infraction in subdivision (1) of this  
87 subsection;

88 (3) The person has satisfied all obligations relating to any such disposition, including the  
89 payment of any fines or restitution;

90 (4) The person does not have charges pending;

91 (5) The petitioner's habits and conduct demonstrate that the petitioner is not a threat to  
92 the public safety of the state; and

93 (6) The expungement is consistent with the public welfare and the interests of justice  
94 warrant the expungement.

95

96 A pleading by the petitioner that such petitioner meets the requirements of subdivisions (5) and  
97 (6) of this subsection shall create a rebuttable presumption that the expungement is warranted  
98 so long as the criteria contained in subdivisions (1) to (4) of this subsection are otherwise  
99 satisfied. The burden shall shift to the prosecuting attorney, circuit attorney, or municipal  
100 prosecuting attorney to rebut the presumption. A victim of an offense, violation, or infraction  
101 listed in the petition shall have an opportunity to be heard at any hearing held under this section,  
102 and the court may make a determination based solely on such victim's testimony.

103 6. A petition to expunge records related to an arrest for an eligible offense, violation, or  
104 infraction may be made in accordance with the provisions of this section to a court of competent  
105 jurisdiction in the county where the petitioner was arrested no earlier than three years from the  
106 date of arrest; provided that, during such time, the petitioner has not been charged and the  
107 petitioner has not been found guilty of any misdemeanor or felony offense.

108 7. If the court determines that such person meets all the criteria set forth in subsection  
109 5 of this section for each of the offenses, violations, or infractions listed in the petition for  
110 expungement, the court shall enter an order of expungement. In all cases under this section, the  
111 court shall issue an order of expungement or dismissal within six months of the filing of the  
112 petition. A copy of the order of expungement shall be provided to the petitioner and each entity  
113 possessing records subject to the order, and, upon receipt of the order, each entity shall close any  
114 record in its possession relating to any offense, violation, or infraction listed in the petition, in  
115 the manner established by section 610.120. The records and files maintained in any  
116 administrative or court proceeding in a municipal, associate, or circuit court for any offense,  
117 infraction, or violation ordered expunged under this section shall be confidential and only  
118 available to the parties or by order of the court for good cause shown. The central repository  
119 shall request the Federal Bureau of Investigation to expunge the records from its files.

120           8. The order shall not limit any of the petitioner's rights that were restricted as a collateral  
121 consequence of such person's criminal record, and such rights shall be restored upon issuance  
122 of the order of expungement. Except as otherwise provided under this section, the effect of such  
123 order shall be to restore such person to the status he or she occupied prior to such arrests, pleas,  
124 trials, or convictions as if such events had never taken place. No person as to whom such order  
125 has been entered shall be held thereafter under any provision of law to be guilty of perjury or  
126 otherwise giving a false statement by reason of his or her failure to recite or acknowledge such  
127 arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her  
128 and no such inquiry shall be made for information relating to an expungement, except the  
129 petitioner shall disclose the expunged offense, violation, or infraction to any court when asked  
130 or upon being charged with any subsequent offense, violation, or infraction. The expunged  
131 offense, violation, or infraction may be considered a prior offense in determining a sentence to  
132 be imposed for any subsequent offense that the person is found guilty of committing.

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

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

138           (2) Any license issued under chapter 313 or permit issued under chapter 571;

139           (3) Paid or unpaid employment with an entity licensed under chapter 313, any  
140 state-operated lottery, or any emergency services provider, including any law enforcement  
141 agency;

142           (4) Employment with any federally insured bank or savings institution or credit union  
143 or an affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C.  
144 Section 1829 and 12 U.S.C. Section 1785;

145           (5) Employment with any entity engaged in the business of insurance or any insurer for  
146 the purpose of complying with 18 U.S.C. Section 1033, 18 U.S.C. Section 1034, or other similar  
147 law which requires an employer engaged in the business of insurance to exclude applicants with  
148 certain criminal convictions from employment; or

149           (6) Employment with any employer that is required to exclude applicants with certain  
150 criminal convictions from employment due to federal or state law, including corresponding rules  
151 and regulations.

152

153 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this  
154 subsection. Notwithstanding any provision of law to the contrary, an expunged offense,  
155 violation, or infraction shall not be grounds for automatic disqualification of an applicant, but

156 may be a factor for denying employment, or a professional license, certificate, or permit; except  
157 that, an offense, violation, or infraction expunged under the provisions of this section may be  
158 grounds for automatic disqualification if the application is for employment under subdivisions  
159 (4) to (6) of this subsection.

160 10. A person who has been granted an expungement of records pertaining to a  
161 misdemeanor or felony offense, an ordinance violation, or an infraction may answer "no" to an  
162 employer's inquiry into whether the person has ever been convicted of a crime if, after the  
163 granting of the expungement, the person has no public record of a misdemeanor or felony  
164 offense, an ordinance violation, or an infraction. The person, however, shall answer such an  
165 inquiry affirmatively and disclose his or her criminal convictions, including any offense or  
166 violation expunged under this section or similar law, if the employer is required to exclude  
167 applicants with certain criminal convictions from employment due to federal or state law,  
168 including corresponding rules and regulations.

169 11. If the court determines that the petitioner has not met the criteria for any of the  
170 offenses, violations, or infractions listed in the petition for expungement or the petitioner has  
171 knowingly provided false information in the petition, the court shall enter an order dismissing  
172 the petition. Any person whose petition for expungement has been dismissed by the court for  
173 failure to meet the criteria set forth in subsection 5 of this section may not refile another petition  
174 until a year has passed since the date of filing for the previous petition.

175 12. A person may be granted more than one expungement under this section provided  
176 that during his or her lifetime, the total number of offenses, violations, or infractions for which  
177 orders of expungement are granted to the person shall not exceed the following limits:

178 (1) Not more than two misdemeanor offenses or ordinance violations that have an  
179 authorized term of imprisonment; **except that, offenses or municipal violations relating to the**  
180 **possession of marijuana shall not be limited;** and

181 (2) Not more than one felony offense.

182

183 A person may be granted expungement under this section for any number of infractions. Nothing  
184 in this section shall prevent the court from maintaining records to ensure that an individual has  
185 not exceeded the limitations of this subsection. Nothing in this section shall be construed to  
186 limit or impair in any way the subsequent use of any record expunged under this section of any  
187 arrests or findings of guilt by a law enforcement agency, criminal justice agency, prosecuting  
188 attorney, circuit attorney, or municipal prosecuting attorney, including its use as a prior offense,  
189 violation, or infraction.

190 13. The court shall make available a form for pro se petitioners seeking expungement,  
191 which shall include the following statement: "I declare under penalty of perjury that the

192 statements made herein are true and correct to the best of my knowledge, information, and  
193 belief".

194           14. Nothing in this section shall be construed to limit or restrict the availability of  
195 expungement to any person under any other law.

✓