

HOUSE AMENDMENT NO. _____
TO
HOUSE AMENDMENT NO. _____

Offered By

1 AMEND House Amendment No. _____ to House Bill No. 1637, Page 1, Line 4, by deleting said line
2 and inserting in lieu thereof the following:

3
4 "~~610.120.~~ 1. Except as otherwise provided under section 610.124, records required to be
5 closed shall ~~[not]~~ be destroyed; ~~[they]~~ however, the record of arrest shall be closed and shall be
6 inaccessible to the general public and to all persons other than the defendant except as provided in
7 this section and chapter 43. Closed records shall be available to: criminal justice agencies for the
8 administration of criminal justice pursuant to section 43.500, criminal justice employment,
9 screening persons with access to criminal justice facilities, procedures, and sensitive information; to
10 law enforcement agencies for issuance or renewal of a license, permit, certification, or registration
11 of authority from such agency including but not limited to watchmen, security personnel, and
12 private investigators; those agencies authorized by chapter 43 and applicable state law when
13 submitting fingerprints to the central repository; the sentencing advisory commission created in
14 section 558.019 for the purpose of studying sentencing practices in accordance with chapter 43; to
15 qualified entities for the purpose of screening providers defined in chapter 43; the department of
16 revenue for driver license administration; the department of public safety for the purposes of
17 determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075,
18 department of health and senior services for the purpose of licensing and regulating facilities and
19 regulating in-home services provider agencies and federal agencies for purposes of criminal justice
20 administration, criminal justice employment, child, elderly, or disabled care, and for such
21 investigative purposes as authorized by law or presidential executive order.

22 2. These records shall be made available only for the purposes and to the entities listed in
23 this section. A criminal justice agency receiving a request for criminal history information under its
24 control may require positive identification, to include fingerprints of the subject of the record
25 search, prior to releasing closed record information. Dissemination of closed and open records from
26 the Missouri criminal records repository shall be in accordance with section 43.509. All records
27 which are closed records shall be removed from the records of the courts, administrative agencies,
28 and law enforcement agencies which are available to the public and shall be kept in separate records
29 which are to be held confidential and, where possible, pages of the public record shall be retyped or
30 rewritten omitting those portions of the record which deal with the defendant's case. If retyping or
31 rewriting is not feasible because of the permanent nature of the record books, such record entries
32 shall be blacked out and recopied in a confidential book.

33 610.130. 1. After a period of not less than ten years, an individual who has pleaded guilty
34 or has"; and

Action Taken _____ Date _____

1
2 Further amend said amendment and page, Line 32, by deleting said line and inserting in lieu thereof
3 the following:

4
5 "driver's license or is required to possess a commercial driver's license issued by this state or
6 any other state.

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

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

- 24 (1) Any class A felony offense;
- 25 (2) Any dangerous felony as that term is defined in section 556.061;
- 26 (3) Any offense that requires registration as a sex offender;
- 27 (4) Any felony offense where death is an element of the offense;
- 28 (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or
29 felony offense of kidnapping;
- 30 (6) Any offense listed, or previously listed, in chapter 566 or section 105.454, 105.478,
31 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, 217.360, 217.385, 334.245, 375.991,
32 389.653, 455.085, 455.538, 557.035, 565.084, 565.085, 565.086, 565.095, 565.120, 565.130,
33 565.156, 565.200, 565.214, 566.093, 566.111, 566.115, 568.020, 568.030, 568.032, 568.045,
34 568.060, 568.065, 568.080, 568.090, 568.175, 569.030, 569.035, 569.040, 569.050, 569.055,
35 569.060, 569.065, 569.067, 569.072, 569.160, 570.025, 570.090, 570.180, 570.223, 570.224,
36 570.310, 571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 574.070, 574.105, 574.115,
37 574.120, 574.130, 575.040, 575.095, 575.153, 575.155, 575.157, 575.159, 575.195, 575.200,
38 575.210, 575.220, 575.230, 575.240, 575.350, 575.353, 577.078, 577.703, 577.706, 578.008,
39 578.305, 578.310, or 632.520;
- 40 (7) Any offense eligible for expungement under section 577.054 or 610.130;
- 41 (8) Any intoxication-related traffic or boating offense as defined in section 577.001, or any
42 offense of operating an aircraft with an excessive blood alcohol content or while in an intoxicated
43 condition;
- 44 (9) Any ordinance violation that is the substantial equivalent of any offense that is not
45 eligible for expungement under this section;
- 46 (10) Any violation of any state law or county or municipal ordinance regulating the
47 operation of motor vehicles when committed by an individual who has been issued a commercial
48 driver's license or is required to possess a commercial driver's license issued by this state or any
49 other state; and

1 (11) Any offense of section 571.030, except any offense under subdivision (1) of subsection
2 1 of section 571.030 where the person was convicted or found guilty prior to January 1, 2017, or any
3 offense under subdivision (4) of subsection 1 of section 571.030.

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

9 4. The petition shall include the following information:

10 (1) The petitioner's:

11 (a) Full name;

12 (b) Sex;

13 (c) Race;

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

15 (e) Current address;

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

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

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

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

23 5. The clerk of the court shall give notice of the filing of the petition to the office of the
24 prosecuting attorney, circuit attorney, or municipal prosecuting attorney that prosecuted the offenses,
25 violations, or infractions listed in the petition. If the prosecuting attorney, circuit attorney, or
26 municipal prosecuting attorney objects to the petition for expungement, he or she shall do so in
27 writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the
28 court shall hold a hearing within sixty days after any written objection is filed, giving reasonable
29 notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt
30 of service, the court may set a hearing on the matter and shall give reasonable notice of the hearing
31 to each entity named in the petition. At any hearing, the court may accept evidence and hear
32 testimony on, and may consider, the following criteria for each of the offenses, violations, or
33 infractions listed in the petition for expungement:

34 (1) At the time the petition is filed, it has been at least three years if the offense is a felony,
35 or at least one year if the offense is a misdemeanor, municipal offense, or infraction, from the date
36 the petitioner completed any authorized disposition imposed under section 557.011 for each offense,
37 violation, or infraction listed in the petition;

38 (2) At the time the petition is filed, the person has not been found guilty of any other
39 misdemeanor or felony, not including violations of the traffic regulations provided under chapters
40 301, 302, 303, 304, and 307, during the time period specified for the underlying offense, violation,
41 or infraction in subdivision (1) of this subsection;

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

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

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

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

49

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

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

13 7. If the court determines that such person meets all the criteria set forth in subsection 5 of
14 this section for each of the offenses, violations, or infractions listed in the petition for expungement,
15 the court shall enter an order of expungement. In all cases under this section, the court shall issue an
16 order of expungement or dismissal within six months of the filing of the petition. A copy of the
17 order of expungement shall be provided to the petitioner and each entity possessing records subject
18 to the order, and, upon receipt of the order, each entity shall ~~close~~ destroy any record, except a
19 record of arrest, in its possession relating to any offense, violation, or infraction listed in the
20 petition, in the manner established by section 610.120. The records and files maintained in any
21 administrative or court proceeding in a municipal, associate, or circuit court for any offense,
22 infraction, or violation ordered expunged under this section shall be confidential and only available
23 to the parties or by order of the court for good cause shown. The central repository shall request the
24 Federal Bureau of Investigation to expunge the records from its files.

25 8. The order shall not limit any of the petitioner's rights that were restricted as a collateral
26 consequence of such person's criminal record, and such rights shall be restored upon issuance of the
27 order of expungement. For purposes of 18 U.S.C. Section 921(a)(33)(B)(ii), an order or
28 expungement granted pursuant to this section shall be considered a complete removal of all effects
29 of the expunged conviction. Except as otherwise provided under this section, the effect of such
30 order shall be to restore such person to the status he or she occupied prior to such arrests, pleas,
31 trials, or convictions as if such events had never taken place. No person as to whom such order has
32 been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise
33 giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas,
34 trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry
35 shall be made for information relating to an expungement, except the petitioner shall disclose the
36 expunged offense, violation, or infraction to any court when asked or upon being charged with any
37 subsequent offense, violation, or infraction. The expunged offense, violation, or infraction may be
38 considered a prior offense in determining a sentence to be imposed for any subsequent offense that
39 the person is found guilty of committing.

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

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

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

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

48 (4) Employment with any federally insured bank or savings institution or credit union or an
49 affiliate of such institution or credit union for the purposes of compliance with 12 U.S.C. Section

1 1829 and 12 U.S.C. Section 1785;

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

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

9
10 An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this
11 subsection. Notwithstanding any provision of law to the contrary, an expunged offense, violation, or
12 infraction shall not be grounds for automatic disqualification of an applicant, but may be a factor for
13 denying employment, or a professional license, certificate, or permit; except that, an offense,
14 violation, or infraction expunged under the provisions of this section may be grounds for automatic
15 disqualification if the application is for employment under subdivisions (4) to (6) of this subsection.

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

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

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

33 (1) Not more than two misdemeanor offenses or ordinance violations that have an
34 authorized term of imprisonment; and

35 (2) Not more than one felony offense.

36
37 A person may be granted expungement under this section for any number of infractions. Nothing in
38 this section shall prevent the court from maintaining records to ensure that an individual has not
39 exceeded the limitations of this subsection. Nothing in this section shall be construed to limit or
40 impair in any way the subsequent use of any record expunged under this section of any arrests or
41 findings of guilt by a law enforcement agency, criminal justice agency, prosecuting attorney, circuit
42 attorney, or municipal prosecuting attorney, including its use as a prior offense, violation, or
43 infraction.

44 13. The court shall make available a form for pro se petitioners seeking expungement,
45 which shall include the following statement: "I declare under penalty of perjury that the statements
46 made herein are true and correct to the best of my knowledge, information, and belief."

47 14. Nothing in this section shall be construed to limit or restrict the availability of
48 expungement to any person under any other law.""; and

- 1 Further amend said bill by amending the title, enacting clause, and intersectional references
- 2 accordingly.
- 3
- 4 THIS AMENDMENT AMENDS 3817H01.33H.