

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 189, 36 & 37

AN ACT

To repeal sections 43.504, 43.507, 488.650, 547.031, 575.010, 575.353, 578.007, 578.022, and 610.140, RSMo, and to enact in lieu thereof nine new sections relating to criminal laws, with penalty provisions.

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

Section A. Sections 43.504, 43.507, 488.650, 547.031, 575.010, 575.353, 578.007, 578.022, and 610.140, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 43.504, 43.507, 547.031, 547.500, 575.010, 575.353, 578.007, 578.022, and 610.140, to read as follows:

43.504. 1. Notwithstanding section 610.120, the sheriff of any county, the sheriff of the City of St. Louis, and the judges of the circuit courts of this state may make available, for review, information obtained from the central repository to private entities responsible for probation supervision pursuant to sections 559.600 to 559.615, as well as to expungement clinics or legal aid organizations for the purposes of pursuing relief under section 610.140. When the term of probation is completed or when the material is no longer needed for purposes related to the probation or expungement, it shall be returned to the court or destroyed. Criminal history information obtained from the central repository may be made available to private entities responsible for providing services associated with drug treatment courts under sections 478.001 to 478.008 and to expungement clinics or legal aid organizations for the purposes of pursuing relief under section 610.140. The private entities shall not use or make this information available to any other person for any other purpose.

2. For the purposes of this section, "expungement clinic" means a pro bono service provider established by the Missouri Bar, a local or specialty bar association as identified by the Missouri Bar, or a nonprofit organization located in Missouri providing legal services to indigent citizens of Missouri.

43.507. 1. All criminal history information, in the possession or control of the central repository, except criminal intelligence and investigative information, may be made available to qualified persons and organizations for research, evaluative and statistical purposes under written agreements reasonably designed to ensure the security and confidentiality of the information and the protection of the privacy interests of the individuals who are subjects of the criminal history.

2. Expungement clinics and legal aid organizations which seek to expunge the records of petitioners at no-charge, pursuant to the provisions of section 610.140, shall have access to all criminal history information in the possession or control of the central repository, except criminal intelligence and investigation, for each petitioner who has executed a written agreement with said clinic or organization. In these cases, pro bono clinics and legal aid organizations shall not be subject to the provisions of subsection 3 of this section.

3. Prior to such information being made available, information that uniquely identifies the individual shall be deleted. Organizations receiving such criminal history information shall not reestablish the identity of the individual and associate it with the criminal history information being provided.

4. For purposes of this section, "expungement clinic" means a pro bono service provider established by the

Missouri Bar, a local or specialty bar association as identified by the Missouri Bar, or a nonprofit organization located in Missouri providing legal services to indigent citizens of Missouri.

547.031. 1. A prosecuting or circuit attorney, in the jurisdiction in which [a person was convicted of an offense] charges were filed, may file a motion to vacate or set aside the judgment at any time if he or she has information that the convicted person may be innocent or may have been erroneously convicted. The circuit court in which [the person was convicted] charges were filed shall have jurisdiction and authority to consider, hear, and decide the motion.

2. Upon the filing of a motion to vacate or set aside the judgment, the court shall order a hearing and shall issue findings of fact and conclusions of law on all issues presented. The attorney general shall be given notice of hearing of such a motion by the circuit clerk and shall be permitted to appear, question witnesses, and make arguments in a hearing of such a motion.

3. The court shall grant the motion of the prosecuting or circuit attorney to vacate or set aside the judgment where the court finds that there is clear and convincing evidence of actual innocence or constitutional error at the original trial or plea that undermines the confidence in the judgment. In considering the motion, the court shall take into consideration the evidence presented at the original trial or plea; the evidence presented at any direct appeal or post-conviction proceedings, including state or federal habeas actions; and the information and evidence presented at the hearing on the motion.

4. The prosecuting attorney or circuit attorney shall have the authority and right to file and maintain an appeal

of the denial or disposal of such a motion. The attorney general may file a motion to intervene and, in addition to such motion, file a motion to dismiss the motion to vacate or to set aside the judgment in any appeal filed by the prosecuting or circuit attorney. Upon intervention pursuant to this section, the intervenor shall have all rights afforded to defendants under the Missouri rules of civil procedure and reasonable and sufficient time to meaningfully assert its position including, but not limited to, the right and time to conduct discovery, the right and time to engage in motion practice, and the right to a trial by jury and sufficient time to prepare for trial. No stipulations, scheduling orders, or other orders affecting the rights of an intervenor and entered prior to intervention shall be binding upon the intervenor.

547.500. 1. The Missouri office of prosecution services may establish a conviction review unit to investigate claims of actual innocence of any defendant including those who plead guilty.

2. The Missouri office of prosecution services shall have the power to promulgate rules and regulations to receive and investigate claims of actual innocence.

3. The Missouri office of prosecution services shall create an application process that at a minimum shall include that:

(1) Any application for review of a claim of actual innocence shall not have any excessive fees and fees shall be waived in cases of indigence;

(2) No application shall be accepted if there is any pending motion, writ, appeal, or other matter pending regarding the defendant's conviction. Any application filed shall be considered a pleading under the Missouri rules of civil procedure and all attorneys shall comply with supreme

court rule 55.03 when signing the application and the application shall be sworn and signed under penalty of perjury by the applicant. Any witness statements attached shall be sworn and signed under penalty of perjury; and

(3) Any review and investigation shall be based on newly discovered and verifiable evidence of actual innocence not presented at a trial. Such newly discovered and verifiable evidence shall establish by clear and convincing evidence the actual innocence of the defendant.

4. The conviction review unit shall consist of two attorneys, hired by the executive director of the Missouri office of prosecution services, who have extensive experience prosecuting and defending criminal matters, an investigator, a paralegal, and such administrative staff as is needed to efficiently and effectively process all applications and claims. The executive director of the Missouri office of prosecution services shall coordinate the activities and budget of the conviction review unit and act as an ex officio member of the unit.

5. Once the review is complete, the conviction review unit shall present its findings and recommendations to:

(1) The office of the prosecuting attorney or circuit attorney who prosecuted the defendant's case; the attorney general's office if it prosecuted the case, or the special prosecutor who prosecuted the case; or

(2) If the review was requested by a prosecuting attorney's office, the circuit attorney's office, attorney general, or special prosecutor, the findings and recommendation shall be presented to the office which requested the review.

6. The circuit attorney, prosecuting attorney of any county, special prosecutor, attorney general's office if it prosecuted the case, Missouri office of prosecution

services, or other prosecutor who prosecuted the case is not required to accept or follow the findings and recommendations of the conviction review unit.

7. (1) The application, investigation, reports, interviews, findings, and recommendations, and any documents, written, electronic or otherwise, received or generated by the conviction review unit are closed records.

(2) The conviction review unit's findings and recommendations submitted to the prosecuting attorney, circuit attorney, the attorney general's office if it prosecuted the case, or the special prosecutor who prosecuted the case, shall become open records after the receiving entity of the submission makes a decision not to pursue a motion under section 547.031 or, if such a motion is filed, after the finality of all proceedings under section 547.031, including appeals authorized therein.

575.010. The following definitions shall apply to this chapter and chapter 576:

(1) "Affidavit" means any written statement which is authorized or required by law to be made under oath, and which is sworn to before a person authorized to administer oaths;

(2) "Government" means any branch or agency of the government of this state or of any political subdivision thereof;

(3) "Highway" means any public road or thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(4) "Judicial proceeding" means any official proceeding in court, or any proceeding authorized by or held under the supervision of a court;

(5) "Juror" means a grand or petit juror, including a person who has been drawn or summoned to attend as a prospective juror;

(6) "Jury" means a grand or petit jury, including any panel which has been drawn or summoned to attend as prospective jurors;

(7) "Law enforcement animal" means a dog, horse, or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs, and tracking animals;

(8) "Official proceeding" means any cause, matter, or proceeding where the laws of this state require that evidence considered therein be under oath or affirmation;

[(8) "Police animal" means a dog, horse or other animal used in law enforcement or a correctional facility, or by a municipal police department, fire department, search and rescue unit or agency, whether the animal is on duty or not on duty. The term shall include, but not be limited to, accelerant detection dogs, bomb detection dogs, narcotic detection dogs, search and rescue dogs and tracking animals;]

(9) "Public record" means any document which a public servant is required by law to keep;

(10) "Testimony" means any oral statement under oath or affirmation;

(11) "Victim" means any natural person against whom any crime is deemed to have been perpetrated or attempted;

(12) "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime; or

(b) Whose declaration under oath is received as evidence for any purpose; or

(c) Who has reported any crime to any peace officer or prosecutor; or

(d) Who has been served with a subpoena issued under the authority of any court of this state.

575.353. 1. This section shall be known and may be cited as "Max's Law".

2. A person commits the offense of assault on a [police] law enforcement animal if he or she knowingly attempts to kill or disable or knowingly causes or attempts to cause serious physical injury to a [police] law enforcement animal when that animal is involved in law enforcement investigation, apprehension, tracking, or search, or the animal is in the custody of or under the control of a law enforcement officer, department of corrections officer, municipal police department, fire department or a rescue unit or agency.

[2.] 3. The offense of assault on a [police] law enforcement animal is a [class C misdemeanor, unless]:

(1) Class A misdemeanor, if the law enforcement animal is not injured to the point of requiring veterinary care or treatment;

(2) Class E felony if the law enforcement animal is seriously injured to the point of requiring veterinary care or treatment; and

(3) Class D felony if the assault results in the death of such animal [or disables such animal to the extent it is unable to be utilized as a police animal, in which case it is a class E felony].

578.007. The provisions of section 574.130 [,] and sections 578.005 to 578.023 shall not apply to:

- (1) Care or treatment performed by a licensed veterinarian within the provisions of chapter 340;
- (2) Bona fide scientific experiments;
- (3) Hunting, fishing, or trapping as allowed by chapter 252, including all practices and privileges as allowed under the Missouri Wildlife Code;
- (4) Facilities and publicly funded zoological parks currently in compliance with the federal "Animal Welfare Act" as amended;
- (5) Rodeo practices currently accepted by the Professional Rodeo Cowboy's Association;
- (6) The killing of an animal by the owner thereof, the agent of such owner, or by a veterinarian at the request of the owner thereof;
- (7) The lawful, humane killing of an animal by an animal control officer, the operator of an animal shelter, a veterinarian, or law enforcement or health official;
- (8) With respect to farm animals, normal or accepted practices of animal husbandry;
- (9) The killing of an animal by any person at any time if such animal is outside of the owned or rented property of the owner or custodian of such animal and the animal is injuring any person or farm animal, but this exemption shall not include [police or guard dogs] the killing or injuring of a law enforcement animal while working;
- (10) The killing of house or garden pests; or
- (11) Field trials, training and hunting practices as accepted by the Professional Houndsmen of Missouri.

578.022. Any dog that is owned, or the service of which is employed, by a law enforcement agency and that bites or injures another animal or human in the course of their official duties is exempt from the provisions of

sections 273.033 [and], 273.036 [and section], 578.012, and 578.024.

610.140. 1. For the purposes of this section, the following terms mean:

(1) "Court", any Missouri municipal, associate circuit, or circuit court;

(2) "Crime", any offense, violation, or infraction of Missouri state, county, municipal, or administrative law;

(3) "Extended course of criminal conduct", crimes which:

(a) Occur during a period of addiction, however long, in which a person suffers from a problematic pattern of use of one or more controlled substances leading to significant impairment or distress that would be characterized as moderate or severe by the most recently published Diagnostic and Statistical Manual of Mental Disorders (DSM). A clinical diagnosis of addiction is not required to prove addiction; or

(b) Occur while a person is between the ages of sixteen to twenty-five;

(4) "Prosecutor" or "prosecuting attorney", the prosecuting attorney, circuit attorney, or municipal prosecuting attorney;

(5) "Same course of criminal conduct", crimes which:

(a) Are charged as counts in the same indictment or information; or

(b) Occur within a time period suggesting a common connection between the offenses, not to exceed one year.

2. Notwithstanding any other provision of law and subject to the provisions of this section, any person may apply to any court in which such person was charged or found guilty of any [offenses, violations, or infractions] crimes

for an order to expunge records of such arrest, plea, trial, or conviction.

(1) Subject to the limitations of subsection [12] 13 of this section, a person may apply to have one or more [offenses, violations, or infractions] crimes expunged if each such [offense, violation, or infraction] crime occurred within the state of Missouri and was prosecuted under the jurisdiction of a Missouri [municipal, associate circuit, or circuit] court, so long as such person lists all the [offenses, violations, and infractions] crimes he or she is seeking to have expunged in the petition and so long as all such [offenses, violations, and infractions] crimes are not excluded under subsection [2]3 of this section.

(2) If the [offenses, violations, or infractions were charged as counts in the same indictment or information or] crimes sought to be expunged were committed as part of the same course of criminal conduct, the person may include all [the] such related [offenses, violations, and infractions] crimes in the petition, regardless of the limits of subsection [12] 13 of this section, and [the petition] those related crimes shall only count as [a petition for expungement of] the highest level [violation or offense contained in the petition] for the purpose of determining current and future eligibility for expungement.

(3) If the crimes sought to be expunged were committed as part of an extended course of criminal conduct, the person may include all such related crimes in the petition:

(a) The person may include all crimes that were committed during a period of addiction as defined in subsection 1 of this section, regardless of the limits of subsection 13 of this section, and those crimes shall count only as the highest level among them for the purpose of determining current and future eligibility for expungement.

(b) The person may include all crimes that were committed while a person was between the ages of sixteen and twenty-five, regardless of the limits of subsection 13 of this section, and those crimes shall count only as the highest level among them for the purpose of determining current and future eligibility for expungement.

[2.] 3. The following [offenses, violations, and infractions]crimes shall not be eligible for expungement under this section:

- (1) Any class A felony offense;
- (2) Any dangerous felony as that term is defined in section 556.061;
- (3) Any offense at the time of conviction that requires registration as a sex offender;
- (4) Any felony offense where death is an element of the offense;
- (5) Any felony offense of assault; misdemeanor or felony offense of domestic assault; or felony offense of kidnapping;
- (6) Any offense listed, [or] previously listed, or is a successor to an offense in chapter 566 or section 105.454, 105.478, 115.631, 130.028, 188.030, 188.080, 191.677, 194.425, [217.360,]217.385, 334.245, 375.991, 389.653, 455.085, 455.538, 557.035, [565.084, 565.085, 565.086, 565.095,]565.120, 565.130, 565.156, [565.200, 565.214,]566.093, 566.111, 566.115, 566.116,568.020, 568.030, 568.032, 568.045, 568.060, 568.065, [568.080, 568.090,]568.175, [569.030, 569.035,]569.040, 569.050, 569.055, 569.060, 569.065, 569.067, 569.072, 569.160, 570.025, [570.090,]570.180, 570.223, 570.224, [570.310,]571.020, 571.060, 571.063, 571.070, 571.072, 571.150, 573.200, 573.205,574.070, 574.105, 574.115, 574.120, 574.130, 574.140,575.040, 575.095, 575.153,

575.155, 575.157, 575.159, 575.195, 575.200, 575.210, 575.220, 575.230, 575.240, [575.350,]575.353, 577.078, 577.703, 577.706, [578.008, 578.305, 578.310,] or 632.520;

(7) Any offense eligible for expungement under section [577.054 or] 610.130;

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

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

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

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

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

[4.] 5. The petition shall include the following information:

(1) The petitioner's:

(a) Full name;

(b) Sex;

(c) Race;

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

(e) Current address;

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

(3) The approximate date the petitioner was charged for each [offense, violation, or infraction] crime; and

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

(5) The case number and name of the court for each [offense] crime.

[5.] 6. The clerk of the court shall give notice of the filing of the petition to the office of the prosecuting attorney[, circuit attorney, or municipal prosecuting attorney] that prosecuted the [offenses, violations, or infractions] crimes listed in the petition. If the prosecuting attorney[, circuit attorney, or municipal prosecuting attorney] objects to the petition for expungement, he or she shall do so in writing within thirty days after receipt of service. Unless otherwise agreed upon by the parties, the court shall hold a hearing within sixty days after any written objection is filed, giving reasonable notice of the hearing to the petitioner. If no objection has been filed within thirty days after receipt of service,

the court may set a hearing on the matter and shall give reasonable notice of the hearing to each entity named in the petition. At any hearing, the court may accept evidence and hear testimony on, and may consider, the following criteria for each of the [offenses, violations, or infractions] crimes listed in the petition for expungement:

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

(2) At the time the petition is filed, it has been at least ten years from the date on which the authorized dispositions imposed under section 557.011 for all crimes committed within the relevant period have been completed if the crimes sought to be expunged were committed as part of an extended course of criminal conduct under subdivision (3) of subsection 2 of this section;

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

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

[(4)] (5) The person does not have charges pending;

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

[(6)] (7) The expungement is consistent with the public welfare and the interests of justice warrant the expungement.

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

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

[7.] 8. If the court determines that such person meets all the criteria set forth in subsection [5] 6 of this section for each of the [offenses, violations, or

infractions] crimes listed in the petition for expungement, the court shall enter an order of expungement. In all cases under this section, the court shall issue an order of expungement or dismissal within six months of the filing of the petition. A copy of the order of expungement shall be provided to the petitioner and each entity possessing records subject to the order, and, upon receipt of the order, each entity shall close any record in its possession relating to any [offense, violation, or infraction] crime listed in the petition, in the manner established by section 610.120. The records and files maintained in any administrative or court proceeding in a municipal, associate, or circuit court for any [offense, infraction, or violation] crime ordered expunged under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The central repository shall request the Federal Bureau of Investigation to expunge the records from its files.

[8.] 9. The order shall not limit any of the petitioner's rights that were restricted as a collateral consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to fully restore the civil rights of such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. This includes fully restoring the civil rights of a person to the right to vote, the right to hold public office, and to serve as a juror. For purposes of 18 U.S.C. Section 921(a)(33)(B)(ii), an order [or] of expungement granted pursuant to this section shall be considered a complete removal of all effects of the expunged conviction. Except

as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall be made for information relating to an expungement, except the petitioner shall disclose the expunged [offense, violation, or infraction] crime to any court when asked or upon being charged with any subsequent [offense, violation, or infraction] crime. The expunged [offense, violation, or infraction] crime may be considered a prior offense in determining a sentence to be imposed for any subsequent offense that the person is found guilty of committing.

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

- (1) A license, certificate, or permit issued by this state to practice such individual's profession;
- (2) Any license issued under chapter 313 or permit issued under chapter 571;
- (3) Paid or unpaid employment with an entity licensed under chapter 313, any state-operated lottery, or any emergency services provider, including any law enforcement agency;
- (4) Employment with any federally insured bank or savings institution or credit union or an affiliate of such

institution or credit union for the purposes of compliance with 12 U.S.C. Section 1829 and 12 U.S.C. Section 1785;

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

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

An employer shall notify an applicant of the requirements under subdivisions (4) to (6) of this subsection.

Notwithstanding any provision of law to the contrary, an expunged [offense, violation, or infraction] crime shall not be grounds for automatic disqualification of an applicant, but may be a factor for denying employment, or a professional license, certificate, or permit; except that, [an offense, violation, or infraction] a crime expunged under the provisions of this section may be grounds for automatic disqualification if the application is for employment under subdivisions (4) to (6) of this subsection.

[10.] 11. A person who has been granted an expungement of records pertaining to a [misdemeanor or felony offense, an ordinance violation, or an infraction] crime may answer "no" to an employer's inquiry into whether the person has ever been arrested, charged, or convicted of a crime if, after the granting of the expungement, the person has no public record of a [misdemeanor or felony offense, an ordinance violation, or an infraction] crime. The person, however, shall answer such an inquiry affirmatively and disclose his or her criminal convictions, including any

offense [or violation] expunged under this section or similar law, if the employer is required to exclude applicants with certain criminal convictions from employment due to federal or state law, including corresponding rules and regulations.

[11.] 12. If the court determines that the petitioner has not met the criteria for any of the [offenses, violations, or infractions] crimes listed in the petition for expungement or the petitioner has knowingly provided false information in the petition, the court shall enter an order dismissing the petition. Any person whose petition for expungement has been dismissed by the court for failure to meet the criteria set forth in subsection [5] 6 of this section may not refile another petition until a year has passed since the date of filing for the previous petition.

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

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

(2) Not more than [one] two felony [offense] offenses.

A person may be granted expungement under this section for any number of infractions. [Nothing in this section shall prevent the court from maintaining records to ensure that an individual has not exceeded the limitations of this

subsection] A person may not be granted more than one expungement under subdivision (3) of subsection 2 of this section. Nothing in this section shall be construed to limit or impair in any way the subsequent use of any record expunged under this section of any arrests or findings of

guilt by a law enforcement agency, criminal justice agency, prosecuting attorney[,], or circuit attorney[, or municipal prosecuting attorney,] including its use as a prior [offense, violation, or infraction] crime.

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

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

[488.650. There shall be assessed as costs a surcharge in the amount of two hundred fifty dollars on all petitions for expungement filed under the provisions of section 610.140. The judge may waive the surcharge if the petitioner is found by the judge to be indigent and unable to pay the costs. Such surcharge shall be collected and disbursed by the clerk of the court as provided by sections 488.010 to 488.020. Moneys collected from this surcharge shall be payable to the general revenue fund.]