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Understanding Missouri's New Expungement Law

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Reprinted from The Missouri Bar LawyerHelp page, at <http://missourilawyershelp.org/understanding-missouris-new-expungement-law/>

Missouri's new expungement law went into effect Jan. 1, 2018, and it substantially expands the list of crimes eligible for expungement.

However, many crimes will remain ineligible. Broadly speaking, class A felonies, dangerous felonies as defined in §556.061 RSMo, any offense requiring registration as a sex offender, a felony offense of assault, or a felony conviction for the offense of kidnapping cannot be expunged. Embedded within the statute is reference to approximately 90 additional crimes that cannot be expunged. Many of those crimes fall within the broad categories mentioned above, but others don't. For instance, a felony stealing conviction cannot be expunged under the new law, as well as certain election offenses. Forgery, mortgage fraud, defrauding secured creditors, fraudulent use of a credit device, contaminating a water supply and felon in possession of a firearm cannot be expunged. Traffic convictions committed by those holding a commercial driver's license are also ineligible for expungement. Ironically, certain crimes (passing a bad check under §570.120 RSMo, fraudulently stopping payment of an instrument of under §570.125, and fraudulent use of a credit device or debit device under §570.130) that could be expunged under the old expungement statute may not be eligible under the new law.

Anyone filing a petition for expungement should carefully examine the list of crimes contained in §610.140.2 RSMo that cannot be expunged.

Additionally, §610.140 RSMo provides that the petition be filed in the court "in which such person was charged or found guilty of any offenses, violations, or infractions." The petition must also "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 listed in the petition."

Once the petition is filed and the appropriate parties are named and served, §610.140.5 provides that “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 listed in the petition for expungement.” [Emphasis added by author.] The six (6) subsections of evidence that may be heard under §640.140.5 include statements that it has been at least seven years for a felony offense and three years for a misdemeanor from the date the petitioner completed any authorized disposition imposed under §557.011 RSMo. Importantly, this section seems to imply but does not compel completion of the time requirements before an expungement is authorized. It also appears that for purposes of counting elapsed time, it is calculated from the completion of the term of imprisonment, parole or probation and not from the date of imposition of the sentence. Additional evidence of good character, payment of restitution and fines may also be considered.

Finally, named defendants have thirty (30) days following service of the petition to file objections to the expungement petition and a court must hold a hearing within sixty (60) days following the objection or thirty (30) days after service on named defendants if no objection is made. For those who succeed in getting a conviction expunged, the statute allows the individual to maintain that he or she has not been convicted of the crime(s) that were expunged.

As with any new statute, it is important to read it carefully. Undoubtedly, questions will arise about the operation of the statute that will require interpretation by appellate courts or future amendments to the statute by the legislature.

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This information is intended as general information about the law and legal system. It is not to be considered as legal advice for your specific situation. Individuals seeking expungement of their criminal record(s) under this law which took effect Jan. 1, 2018, are encouraged to hire an attorney to aid them in the petition process. You may use the state bar’s free, online LawyerSearch feature to find lawyers currently accepting new clients. Choose “Criminal Law” as the area of practice for an expungement petition case. In addition, the Office of State Courts Administrator has published a petition form via the Courts website.

Printed: May 25, 2020

<http://www.lsmo.org/node/847/understanding-missouris-new-expungement-law>

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