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NOTE

Expungement Expansion: Missouri Makes More Misdemeanors Moot

*Raymond Lee**

I. INTRODUCTION

If you live in Missouri and want to be a barber,¹ a social worker,² or an interpreter for the deaf community,³ you better not have a criminal record.⁴ The State imposes licensing restrictions on those professions and approximately fifty others based in part on a person's prior criminal convictions.⁵ This means that those with even minor criminal offenses in their history may face significant challenges in finding a job. This sort of regime is not specific to Missouri – every state in the nation has some form of employment restriction based on citizens' criminal records.⁶ The effects of a criminal record are not limited to potential employment concerns but can extend to other aspects of life, including the loss of civil rights such as voting,⁷ the ability to serve on a jury or hold an office,⁸ and the ability to possess a firearm.⁹ Further, a criminal record can have an impact on a person's ability to rent an apartment or get into

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1. MO. REV. STAT. § 328.020 (2018) (“It shall be unlawful for any person to practice the occupation of a barber in this state, unless he or she shall have first obtained a license”).

2. *Id.* § 337.604 (“No person shall hold himself or herself out to be a social worker unless such person has . . . [a] current social worker license . . .”).

3. *Id.* § 209.321 (“No person shall represent himself or herself as an interpreter . . . unless such person is licensed . . .”).

4. The corresponding licensing board may refuse to license an applicant if the applicant has been convicted of “any offense reasonably related to the qualifications, functions or duties [or] . . . an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed.” *Id.* § 328.150 (barber); *id.* § 337.035 (social worker); *id.* § 209.334 (interpreter).

5. See *Listing of Professions*, MO. DEP'T PROFESSIONAL REGISTRATION, <https://pr.mo.gov/professions.asp> (last visited Mar. 11, 2019).

6. Spearit, *Evolving Standards of Domination: Abandoning a Flawed Legal Standard and Approaching a New Era in Penal Reform*, 90 CHI.-KENT L. REV. 495, 512 (2015) (“[E]very state restricts felons from certain jobs and professional licenses.”).

7. *Id.* at 511.

8. See *id.* at 511–12.

9. MO. REV. STAT. § 571.070.1(1).

college.¹⁰ Often compounding these negative factors is the social stigma that accompanies having a criminal record.

On July 13, 2016, then-Missouri Governor Jay Nixon signed Senate Bill 588 into law, which expands the opportunities available in Missouri for the expungement of criminal convictions from a person's record.¹¹ The new law went into effect on January 1, 2018, and encompasses nearly two thousand misdemeanor and felony crimes now eligible for expungement, which is the process of removing a conviction from an individual's criminal record.¹² The new law makes it easier for former offenders who have completed their sentences, paid restitution, and become law-abiding citizens to petition the court in which they were convicted to close their criminal records to the public.¹³

This Note evaluates the evolution of Missouri's expungement law. Part II identifies the consequences of living with a criminal record and addresses the socioeconomic impacts it can have, as well as its impact on civil rights. Part III details the passage of Senate Bill 588 and its effect on the expansion of expungement in Missouri. Finally, this Note argues that, while Missouri's expungement expansion represents a laudable step towards restoring the rights and opportunities of its citizens, the law nevertheless remains a work in progress. This Note additionally offers recommendations to further broaden expungement in Missouri by making it more widely available, encompassing, and robust.

II. LEGAL BACKGROUND

This Part details the wide array of consequences that living with a criminal conviction can have on an individual. This Part further discusses the recent growth of criminal record expungement and sealing and details why these methods have become popular tools for lawmakers to turn to. Finally, this Part discusses the history of criminal record expungement in Missouri prior to the passage of Senate Bill 588.

10. Spearit, *supra* note 6, at 511, 513.

11. Tom Carver, *Missouri Expungement: Everything You Need to Know*, CARVER CANTIN (Jan. 5, 2018), <https://carvercantin.com/missouri-expungement/>; Joshua Gaines, *Missouri Expands Expungement in a Big Way*, COLLATERAL CONSEQUENCES RES. CTR. (July 20, 2016), <https://ccresourcecenter.org/2016/07/20/missouri-expands-expungement-in-a-big-way/>.

12. *Expungement of Record*, BLACK'S LAW DICTIONARY (10th ed. 2014).

13. *Id.*

A. Consequences of Living with a Criminal Record

Nationwide, as many as one in three adults have a criminal record that reflects some form of involvement in the criminal justice system.¹⁴ Given Missouri's current population of more than six million residents,¹⁵ that percentage amounts to over two million of our friends, family members, neighbors, and also complete strangers who have had at least a minor skirmish with law enforcement officers.

1. Socioeconomic Impact

In many occasions, this population faces a glut of “collateral consequences” beyond the sentences, if any, in their criminal cases.¹⁶ The most notable of these consequences are employment barriers.¹⁷ State and federal laws bar individuals with certain convictions from working in a wide range of professions, from everyday vocations – such as long-term health care, child care, schools, and transportation – to more obscure occupations, like handling fireworks or fitting customers with hearing aids.¹⁸ In several other career paths, criminal convictions can prevent workers from obtaining or retaining mandatory occupational licenses.¹⁹ Even in unregulated occupations, the rejection of job applicants with criminal records remains extremely common.²⁰ The use of background screening has become ubiquitous; surveys reveal that upwards of ninety percent of employers use criminal background checks in their hiring decisions.²¹

14. Dan Clark, *How Many U.S. Adults Have a Criminal Record? Depends on How You Define It*, POLITIFACT (Aug. 18, 2017), <http://www.politifact.com/new-york/statements/2017/aug/18/andrew-cuomo/yes-one-three-us-adults-have-criminal-record/> (“The FBI considers anyone who has been arrested on a felony charge to have a criminal record, even if the arrest did not lead to a conviction. The FBI only counts those with a misdemeanor if a state agency asks the bureau to keep it on file.”).

15. See *QuickFacts: Missouri*, U.S. CENSUS BUREAU, <https://www.census.gov/data/datasets/2017/demo/popest/state-total.html> (stating Missouri's population as of July 1, 2018, at 6,126,452).

16. See generally Danielle R. Jones, *When the Fallout of a Criminal Conviction Goes Too Far: Challenging Collateral Consequences*, 11 STAN. J. CIV. RTS. & CIV. LIBERTIES 237, 249 (2015).

17. See *id.*

18. Joshua Kaiser, *Revealing the Hidden Sentence: How to Add Transparency, Legitimacy, and Purpose to “Collateral” Punishment Policy*, 10 HARV. L. & POL'Y REV. 123, 135 (2016).

19. *Id.*; see e.g., MO. REV. STAT. § 346.055 (2018); *id.* § 346.105.

20. See Jones, *supra* note 16, at 246–47.

21. Heather J. Garretson, *Legislating Forgiveness: A Study of Post-Conviction Certificates as Policy to Address the Employment Consequences of a Conviction*, 25 B.U. PUB. INT. L. J. 1, 8–9 (2016).

Higher education and housing are not far behind. As many as two-thirds of colleges collect criminal history information from applicants during the admissions process.²² It is estimated that eighty percent of landlords conduct criminal history checks on prospective tenants.²³ When these consequences are considered en masse, it is no surprise that criminal records are a major stumbling block for those trying to escape poverty.²⁴

2. Impact on Civil Rights

Any felony conviction brings with it a wide range of negative consequences – everything from the severe social stigma of being labeled a “felon” to the possibility of jail time and the wide array of post-conviction hurdles, such as difficulty finding a steady job or an apartment to rent.²⁵ However, when discussing the consequences of a felony conviction, what is often overlooked is the fact that felons are stripped of many of their civil rights.²⁶ In Missouri, like most other states, the loss of rights that accompany convictions can follow an offender long after his or her debt to society has been paid.²⁷

Under Missouri law, a person convicted of a felony offense may not vote while serving a prison sentence or while on parole or probation.²⁸ Similarly, misdemeanants are also disenfranchised; however, their voting ban lasts only as long as their prison sentence.²⁹ Consequently, nearly 90,000 Missouri citizens are currently disqualified from voting.³⁰ In Missouri, a person who is convicted of a felony or any misdemeanor involving misconduct in office or dishonesty also forfeits the right to hold any elected or appointed public office.³¹ Missouri law also dictates that a felony offender is permanently disqualified from jury service unless pardoned.³² Further, purchase or possession

22. Rebecca R. Ramaswamy, Note, *Bars to Education: The Use of Criminal History Information in College Admissions*, 5 COLUM. J. RACE & L. 145, 146 (2015).

23. Rebecca Oyama, Note, *Do Not (Re)enter: The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act*, 15 MICH. J. RACE & L. 181, 192 (2009).

24. Mackenzie J. Yee, Note, *Expungement Law: An Extraordinary Remedy for an Extraordinary Harm*, 25 GEO. J. ON POVERTY L. & POL’Y 169, 175 (2017).

25. See Anna Kessler, Comment, *Excavating Expungement Law: A Comprehensive Approach*, 87 TEMP. L. REV. 403, 405–06 (2015).

26. *Id.*

27. *See id.*

28. MO. REV. STAT. § 115.133.2 (2018).

29. *Id.* § 115.133.2(1).

30. *Number of People by State Who Cannot Vote Due to a Felony Conviction*, PROCON.ORG, <https://felonvoting.procon.org/view.resource.php?resourceID=000287> (last updated Oct. 4, 2017).

31. MO. REV. STAT. § 561.021.1.

32. *Id.* § 561.026(3); *see also id.* § 494.425(4) (stating a person convicted of a felony is disqualified from serving as petit or grand juror unless the person’s civil rights have been restored).

of firearms is unlawful for a person “convicted of a felony under the laws of [Missouri], or of a crime under the laws of any state or of the United States which, if committed within [Missouri], would be a felony.”³³

While current Missouri law does automatically restore voting rights and the right to hold public office to most individuals who have been convicted of a misdemeanor or felony upon completion of their sentences and/or probation,³⁴ such restoration of rights is not universal. For instance, when a person has been convicted of “a felony or misdemeanor connected with the right of suffrage,” these rights will not be restored.³⁵ Further, as long as a felony remains on a person’s criminal record, that person’s rights to purchase a firearm, possess a firearm, or serve on a jury can never be restored unless he or she is pardoned.³⁶

B. Methods of Remedying the Collateral Consequences of Conviction

A great deal of the collateral consequences that accompany a criminal record are life-long.³⁷ However, people with criminal records who develop a track record of avoiding future criminal endeavors do not present an ongoing risk to the community for more than a few years. Studies show the rate of an individual with a prior criminal record reoffending³⁸ falls below the rate of arrest for the general population after approximately four years of abstaining from crime.³⁹ This Section discusses the solutions that some states have put forward to help ease the ongoing burden of living with a criminal record.

1. Policy Solutions

Mindful of how the economic challenges discussed in Section A affect such a large number of people – most of whom have paid their debts to society and present no current threat – policymakers across the country have sought avenues for mitigating these barriers. At the federal level, progress has been virtually non-existent. With the exception of guidance issued by the United

33. *Id.* § 571.070.1(1). Antique weapons are not prohibited. *Id.* § 571.070.3.

34. *Id.* § 115.133.2.

35. *Id.* § 115.133.2(3); *see also* MO. CONST. art. VIII, § 2 (persons convicted of felony or crime connected with suffrage may be excluded from voting); MO. REV. STAT. § 561.026(2) (“[A] person who is convicted . . . [o]f a felony or misdemeanor connected with the exercise of the right of suffrage shall be forever disqualified from registering and voting.”).

36. MO. REV. STAT. § 561.026(3); *see also id.* § 494.425(4) (a person convicted of a felony is disqualified from serving as petit or grand juror unless person’s civil rights have been restored).

37. For instance, a felon’s loss of his or her right to possess a firearm is permanent. *Id.* § 571.070.

38. *Recidivism*, BLACK’S LAW DICTIONARY (10th ed. 2014).

39. Jenny Roberts, *Expunging America’s Rap Sheet in the Information Age*, 2015 WIS. L. REV. 321, 337.

States Department of Housing and Urban Development (“HUD”) stating that blanket prohibitions by landlords who turn down tenants based on their criminal records are a violation of the Fair Housing Act,⁴⁰ no significant steps towards remedying the collateral consequences of criminal records have been taken at the federal level. However, attempts at remedying collateral consequences at the state level have gained much more traction.⁴¹

One notable policy solution the State of Missouri recently enacted in 2016 is “ban-the-box,” which seeks to eliminate bias against individuals with criminal records by advocating to remove the “box” that job applicants typically must check if they have a criminal history.⁴² While ban-the-box represents a “statewide step in the right direction,” it is limited in its scope in that the underlying offenses that caused the need for criminal history anonymity remain unscathed on an individual’s record and thus still very much exist.⁴³ Moreover, even when remedies aimed at curtailing the consideration of criminal records in the hiring process exist, they are not self-executing.⁴⁴ For instance, an employer must first know about and understand a remedy such as ban-the-box and then also have both the ability and the willingness to apply the remedy properly before a job applicant can benefit from it. It comes as no surprise that many employers fail to fully utilize these remedies.⁴⁵

40. HUD, OFF. OF GEN. COUNSEL GUIDANCE ON APPLICATION OF FAIR HOUSING ACT STANDARDS TO THE USE OF CRIMINAL RECORDS BY PROVIDERS OF HOUSING AND REAL ESTATE-RELATED TRANSACTIONS 6 (2016), https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF; see also Camila Domonoske, *Denying Housing Over Criminal Record May Be Discrimination, Feds Say*, NPR (Apr. 4, 2016), <https://www.npr.org/sections/thetwo-way/2016/04/04/472878724/denying-housing-over-criminal-record-may-be-discrimination-feds-say>. HUD reasoned that such blanket policies constitute a disparate impact in housing discrimination because incarceration rates in the United States are disproportionate between minorities and non-minorities. See HUD, *supra*.

41. For a comprehensive review of all state-based legislation aimed at curbing the collateral consequences of criminal convictions for the period from 2009 to 2014, see RAM SUBRAMANIAN ET AL., VERA INST. OF JUSTICE, RELIEF IN SIGHT? STATES RETHINK THE COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTION, 2009–2014 (2014), https://storage.googleapis.com/vera-web-assets/downloads/Publications/relief-in-sight-states-rethink-the-collateral-consequences-of-criminal-conviction-2009-2014/legacy_downloads/states-rethink-collateral-consequences-report-v4.pdf.

42. Jessica Chinnadurai, Note, *Banning the Box in Missouri: A Statewide Step in the Right Direction*, 82 MO. L. REV. 863, 864 (2017).

43. See *id.*

44. *Id.* at 869.

45. Garretson, *supra* note 21, at 9 (“Surveys reveal that up to 92% of employers use criminal background checks in their hiring decisions and that a criminal record reduces the likelihood of a callback by 50%.”).

Another new and innovative tool that some states have turned to is the certificate of relief.⁴⁶ A certificate of relief is meant to demonstrate that an ex-offender has been rehabilitated based on meeting certain statutory requirements, and it carries effects such as removing automatic licensing bars, providing a judicial testament of good character, and protecting employers from negligent hiring claims.⁴⁷ While empirical studies have concluded that certificates of relief have a positive impact on employment outcomes for job applicants with a criminal record,⁴⁸ this remedy is still subject to the same limitations as ban-the-box laws – namely that they normally apply narrowly to employment opportunities and still allow for employer discretion in certain cases.

States like Hawaii and Pennsylvania have taken less subtle approaches towards avoiding employment-related criminal record discrimination. Hawaii, for instance, makes it unlawful for an employer to refuse to hire someone on the basis of an “arrest [or] court record.”⁴⁹ Employers in Hawaii are only allowed to consider a criminal conviction in the hiring process if the recorded crime occurred in the past ten years and “bears a rational relationship to the duties and responsibilities of the position.”⁵⁰ Similarly, Pennsylvania law dictates that, when making a hiring decision, an employer can consider an individual’s criminal convictions “only to the extent to which [the convictions] relate to the applicant’s suitability for employment in the position for which he has applied.”⁵¹ However, even laws such as these, while commendable, are still relatively narrow in the sense they target only employment-based issues related to criminal convictions and leave the other collateral consequences unscathed.

A pardon, which is engrained in the Missouri Constitution, is one final type of relief mechanism that warrants mentioning.⁵² Since 2014, at least four states have passed laws strengthening the pardon relief available to convicted individuals.⁵³ However, any such benefits are dependent on a grant of clemency by the governor, and Missouri governors, unlike the governors in some

46. Peter Leasure & Tia Stevens Andersen, *The Effectiveness of Certificates of Relief as Collateral Consequence Relief Mechanisms: An Experimental Study*, 35 YALE L. & POL’Y REV. INTER ALIA 11, 14 (2016).

47. *Id.*

48. *See generally id.*

49. HAW. REV. STAT. ANN. § 378-2(a)(1) (West 2018).

50. *Id.* § 378-2.5(a).

51. 18 PA. STAT. AND CONS. STAT. ANN. § 9125(b) (West 2018).

52. *See* MO. CONST. art. IV, § 7 (“The governor shall have power to grant reprieves, commutations and pardons, after conviction.”).

53. SUBRAMANIAN ET AL., *supra* note 41, at 10.

other states,⁵⁴ have been reluctant to issue pardons.⁵⁵ For example, Missouri Governor Matt Blunt granted only fourteen pardons out of 1,338 applications in his four-year term spanning from 2005 to 2009 – a ratio that equates to roughly one percent of petitioners.⁵⁶ Indeed, the high-water mark over the past three decades in Missouri has totaled only 110 pardons across a four-year term, making gubernatorial pardons a traditionally unreliable avenue.⁵⁷

2. Expungement and Sealing

Consequently, in search of a more effective tool to help people with criminal records return to mainstream society, legislatures in many states have gravitated to an expansion of record clearing through judicial processes, such as expungement or sealing.⁵⁸ Expungement is the process by which offenders can petition a court to remove or seal records of arrests or convictions. Every state in the nation offers at least some form of judicial record clearing remedy; however, the scope of these remedies vary greatly.⁵⁹ Expungement and sealing shield people from collateral consequences after they have demonstrated their rehabilitation through desistance from crime.⁶⁰ With their waiting periods, expungement and sealing laws aid in limiting collateral consequences, but they

54. *Id.* (“Illinois’ former Governor Pat Quinn granted more than 1,100 clemency petitions since taking office . . .”).

55. Kristen L. Stallion, Note, *No Less A Victim: A Call to Governor Nixon to Grant Clemency to Two Missouri Women*, 81 MO. L. REV. 287, 296 (2016) (“The five Missouri governors prior to the Nixon administration collectively granted clemency 160 times.”).

56. *Missouri Restoration of Rights, Pardon, Expungement & Sealing*, COLLATERAL CONSEQUENCES RES. CTR., <http://ccresourcecenter.org/state-restoration-profiles/missouri-restoration-of-rights-pardon-expungement-sealing/> (last updated Mar. 3, 2019).

57. See David A. Lieb, *Missouri Governor Tops 100 Pardons, Absolves Clergy Protest*, WASH. TIMES (Jan. 6, 2017), <https://www.washington-times.com/news/2017/jan/6/missouri-governor-sets-three-decade-high-mark-for-/>. Governor Jay Nixon issued 100 clemency actions, which is more than any Missouri governor in the last three decades within a single four-year term. *Id.*

58. See SUBRAMANIAN ET AL., *supra* note 41, at 11; see also Garretson, *supra* note 21, at 11–23, 15 n.97 (discussing certification legislation as a method to resolve collateral consequences of a criminal record).

59. See *50-State Comparison: Judicial Expungement, Sealing, and Set-Aside*, RESTORATION OF RTS PROJECT, <http://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-judicial-expungement-sealing-and-set-aside/> (last updated Mar. 2019) (comparing all fifty states).

60. Cf. Garretson, *supra* note 21, at 9–11 (discussing the necessity of employment, the difficulty for individuals with criminal records to obtain employment, and how one method to deal with the consequences is the certificate system).

only do so to the extent the person has established a track record of rehabilitation.⁶¹

Judicial relief mechanisms like expungement and sealing are so effective⁶² because, quite simply, a person need not be concerned with employers, landlords, colleges, or other users of background checks to evaluate his or her criminal record in a legal or fair manner if the information is simply not made available. These remedies ensure that employers, licensing agencies, and communities view an individual in light of his or her character today rather than mistakes he or she made in the distant past.⁶³ Additionally, these laws provide a broad remedy, helping alleviate all collateral consequences rather than just employment barriers.⁶⁴ Accordingly, since 2011, more than twenty states⁶⁵ have expanded eligibility for expungement or sealing, including Missouri's neighboring states of Illinois, Oklahoma, Kentucky, and Tennessee.⁶⁶

Although the general concepts behind expungement and sealing are universal, a great deal of variance exists from one state to the next regarding the procedures, eligibility requirements, and timeframes for expunging or sealing criminal records.⁶⁷ In addition, states differ as to the level of discretion inherent in the decision to allow or deny a petition for expungement or sealing.⁶⁸ In

61. Brian M. Murray, *A New Era for Expungement Law Reform? Recent Developments at the State and Federal Levels*, 10 HARV. L. & POL'Y REV. 361, 379 (2016) (“[E]xtensive waiting periods after completion of the full sentence undermine positive reentry given that the particular offender has been fully compliant with his or her obligations to the justice system.” (alteration in original)).

62. See SUBRAMANIAN ET AL., *supra* note 41, at 13. *But see* Murray, *supra* note 61, at 378–79 (discussing the usefulness of expungements but ultimately concluding it is not enough to resolve criminal record bias entirely).

63. See SUBRAMANIAN ET AL., *supra* note 41, at 13. *But see* Murray, *supra* note 61, at 367 (“[M]itigation remedies, while sometimes useful in reducing the stigma associated with criminal records and creating pathways to employment, do not help offenders come out fully from behind the shadows of their past.”).

64. See SUBRAMANIAN ET AL., *supra* note 41, at 11 (discussing new approaches to alleviate all collateral consequences, not just employment barriers).

65. These states include: “California, Colorado, Idaho, . . . Indiana, Louisiana, Maryland, Massachusetts, . . . Minnesota, North Dakota, . . . Ohio, Tennessee, Utah, . . . Vermont, . . . Wyoming,” Illinois, Kentucky, Missouri, Oklahoma, New Jersey, Pennsylvania, and Rhode Island. Murray, *supra* note 61, at 369 n.58; Mandy Ruckman, *Rauner Signs Bills to Expand Criminal Record Sealing and Juvenile Record Expungement*, ILL. POL'Y (Aug. 24, 2017), <https://www.illinoispolicy.org/rauner-signs-bills-to-expand-criminal-record-sealing-and-juvenile-record-expungement>; Joshua Gaines, *Expungement Expansion Round-Up (2016 edition)*, COLLATERAL CONSEQUENCES RES. CTR. (May 23, 2016), <http://ccresourcecenter.org/2016/05/23/expungement-expansion-round-up-2016-edition/>.

66. Ruckman, *supra* note 65 (Illinois); Gaines, *supra* note 65 (Oklahoma and Kentucky); Murray, *supra* note 61 (Tennessee).

67. See SUBRAMANIAN ET AL., *supra* note 41, at 13–18.

68. See Yee, *supra* note 24, at 183–84 (mentioning state statutes spell out different balancing tests for judges to use).

many states, judges tasked with making expungement or sealing decisions often consider discretionary factors, such as an individual's interest in privacy, an individual's demonstrated change in conduct or rehabilitation, and the general interest of the public in keeping the record open to promote public safety.⁶⁹

Other states, however, have opted to allow for automatic sealing or expungement of certain records.⁷⁰ "Automatic" sealing or expungement means either that records are sealed or expunged by default following certain dispositions or that individuals are allowed to file a petition to seal or expunge that will automatically be accepted if certain statutory factors are satisfied.⁷¹ In Massachusetts, an individual seeking to seal a conviction record can simply fill out a one-page "Petition to Seal" that will automatically be accepted, provided that the individual has met the eligibility requirements.⁷²

Jurisdictions also differ as to which offenses and dispositions are eligible for sealing or expungement.⁷³ Many states offer some form of sealing or expungement for non-conviction records but are more restrictive or prohibitive for sealing conviction records – especially felony records.⁷⁴ Finally, the amount of time that an individual must wait to be eligible to petition to seal or expunge a particular type of criminal record or offense depends on the statutory scheme of the state in which they seek the remedy.⁷⁵

C. Missouri Criminal Record Expungement Prior to Senate Bill 588

Except in limited circumstances, for the majority of the twentieth century, there were no good answers for those seeking to expunge criminal convictions in Missouri. At common law, Missouri courts had nonexistent statutory authority and severely limited equitable powers to expunge criminal records.⁷⁶

69. See, e.g., MO. REV. STAT. § 610.140 (2018) (requiring expungement to be "consistent with the public welfare"); TENN. CODE ANN. § 40-32-101 (West 2018) (requiring consideration of the "best interests of justice and public safety").

70. Kessler, *supra* note 25, at 417–18.

71. Anne Teigen, *Automatically Sealing or Expunging Juvenile Records*, NAT'L CONFERENCE OF STATE LEGIS. (July 2016), <http://www.ncsl.org/research/civil-and-criminal-justice/automatically-sealing-or-expunging-juvenile-records.aspx> (discussing automatic sealant in the context of juvenile records).

72. See Lahny R. Silva, *Clean Slate: Expanding Expungements and Pardons for Non-Violent Federal Offenders*, 79 U. CINCINNATI L. REV. 155, 192 (2010) (noting a form that "requires the Commissioner to comply with the request so long as there have been no new criminal convictions or imprisonment"); see also *Petition to Seal*, MASS., <https://www.mass.gov/courts/docs/probation/sealingpetition.pdf> (last visited Mar. 11, 2019).

73. See *50-State Comparison: Judicial Expungement, Sealing, and Set-Aside*, *supra* note 59.

74. See *id.*; Kessler, *supra* note 25, at 428.

75. See *50-State Comparison: Judicial Expungement, Sealing, and Set-Aside*, *supra* note 59.

76. See Megan Dunn, Note, *You're Fired! The Role of State Courts in the Expungement of Criminal Records for Federal Security Clearance Purposes*, 71 MO. L.

This changed dramatically in 1993 when the Missouri legislature updated and amended sections of the Missouri Revised Statutes outlining, for the first time, “the statutory requirements for ordering expungement of criminal records.”⁷⁷ Although the 1993 revisions were specifically aimed at the expungement of arrest records, a smattering of statutory carveouts were added in the ensuing decades, making expungement available for:

- 1) Arrest records in which charges are never brought;⁷⁸
- 2) Charges on which the disposition did not result in a conviction;⁷⁹
- 3) Instances in which a person erroneously convicted of a crime is later exonerated;⁸⁰
- 4) Certain first-time alcohol related driving offenses after a waiting period of ten years;⁸¹
- 5) Instances in which a person is convicted of the purchase or possession of liquor as a minor;⁸²
- 6) Records that are erroneously attributed to a person on account of mistaken identity or false impersonation;⁸³ and
- 7) Minors who were convicted of prostitution as a result of sex trafficking or coercion.⁸⁴

In addition to the items detailed above, in 2012, the Missouri legislature enacted a provision authorizing a sentencing court to expunge a handful of select criminal offenses.⁸⁵ Missouri Revised Statutes section 610.140, as originally enacted, was limited to just thirteen specific circumstances, such as felony and misdemeanor convictions for passing a bad check or fraudulent use of a credit or debit device.⁸⁶ Other obscure misdemeanor offenses – like negligent burning, exploding, or allowing a fire to escape; gambling; private peace disturbance; first-degree trespass; and the serious offense of being drunk in a

REV. 495, 498 (2006). At common law, Missouri courts’ only ability to assert equitable power to expunge criminal records was limited to cases that involved “illegal prosecution, acquittal, or extraordinary circumstances.” *Id.*

77. *Id.* at 498–99.

78. MO. REV. STAT. § 610.122.1(1)(b) (2018).

79. *Id.* § 610.105.

80. *Id.* § 650.058.4.

81. *Id.* § 610.130. The offense must be a misdemeanor and not one related to driving commercial motor vehicles while under the influence. *Id.*

82. *Id.* § 311.326. In such instances, the person must wait until he or she is at least twenty-two years of age prior to seeking expungement. *Id.*

83. *Id.* § 575.120; *id.* § 610.145.

84. *Id.* § 610.131.

85. H.R. 1647, 96th Gen. Assemb. (Mo. 2012), <https://house.mo.gov/billtracking/bills121/hlrbillspdf/5603S.03T.pdf>.

86. *See* MO. REV. STAT. § 610.140 (2012).

church – also qualified as seldom charged but expungement-eligible offenses under the original enactment of section 610.140.⁸⁷

Suddenly, a person could apply to have one or more offenses expunged so long as such offenses were eligible and the person met the prerequisites provided in the original section 610.140 for filing an expungement petition.⁸⁸ The waiting period before a record became expungement eligible was ten years from the completion of sentence for misdemeanors and twenty years from the completion of sentence for felonies.⁸⁹ Also, the court was required to find that the petitioner had no intervening convictions; that “the circumstances and behavior of the petitioner warrant[ed] the expungement;” and that “expungement [was] consistent with the public welfare.”⁹⁰ There was no limit to the number of expungements a person could be granted under the original section 610.140 except that each person was only allowed one use of the section 610.140 expungement provision per each individual Missouri court in which the person was convicted.⁹¹

Under the common law in Missouri, “expungement” traditionally meant the absolute destruction of records.⁹² The original section 610.140 generally codified the common law interpretation, requiring that all records relating to an expunged prior conviction except for the official court records be “destroy[ed]” upon a successful petitioning of the court.⁹³ As a result, any entity or agency other than the convicting court,⁹⁴ that held records ordered to be expunged was required by statute to physically destroy them.⁹⁵ The statute allowed only the convicting court to retain the records; however, those were “confidential” and available only to the parties themselves or by court order upon a showing of good cause.⁹⁶

Expungement was intended to restore a person “to the status he or she occupied prior to [conviction] as if such event[] had never taken place.”⁹⁷ Thus, beyond mere destruction of the records, the original section 610.140 further provided that no person who was granted an order of expungement would be guilty of perjury or otherwise giving a false statement if he or she “fail[ed] to recite or acknowledge such arrests, pleas, trials, convictions, or

87. *Id.*

88. *Id.* § 610.140.

89. *Id.* § 610.140.5.

90. *Id.*

91. *Id.* § 610.140.10.

92. *See* Bergel v. Kassebaum, 577 S.W.2d 863, 871 (Mo. Ct. App. 1978) (“Black’s Law Dictionary, Revised Fourth Edition, defines ‘expunge’ to mean: ‘to destroy or obliterate; it implies not a legal act, but a physical annihilation.’”).

93. MO. REV. STAT. § 610.140.6.

94. *E.g.*, a municipal police department or the Missouri Director of Revenue.

95. *Id.* Or in cases where the records could not be destroyed, such as if they were part of a larger physical book, they were required to be blacked out. *Id.*

96. *Id.*

97. *Id.* § 610.140.7.

expungement in response to an inquiry made of him or her.”⁹⁸ Therefore, a person whose record had been expunged could deny the conviction in response to an inquiry, and “no such inquiry [could] be made for information relating to an expungement, except the petitioner shall disclose the expunged offense to any court when asked or upon being charged with any subsequent offense.”⁹⁹

With that said, courts were allowed to consider expunged convictions for enhancing subsequent sentences and could give them predicate effect.¹⁰⁰ Further, Missouri law required people to disclose any expunged offense in an application for a professional license; any license or employment relating to alcoholic beverages; employment with any state-operated lottery; or any emergency services provider, including any law enforcement agency.¹⁰¹ The original section 610.140 provided, “Notwithstanding any provision of law to the contrary, an expunged offense 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.”¹⁰²

III. RECENT DEVELOPMENTS

On July 13, 2016, then-Governor Jay Nixon signed into law Senate Bill 588, which aimed to relax Missouri’s historically strict expungement laws.¹⁰³ Governor Nixon said of the bill, “Missourians who have paid their debt to society and become law-abiding citizens deserve a chance to get a job and support their families This bill represents a reasonable, balanced approach, and I’m pleased to sign it into law today.”¹⁰⁴

The new legislation’s purpose is to make it easier for Missourians with criminal histories to obtain employment while also ensuring that law enforcement agencies can access the information they need to protect the public.¹⁰⁵ Senate Bill 588 expands the types of offenses eligible for expungement, allows

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.* § 610.140.8.

102. *Id.*

103. See S.B. 588, 98th Gen. Assemb., 2d Reg. Sess. (Mo. 2016), http://www.senate.mo.gov/16info/BTS_Web/Bill.aspx?SessionType=R&BillID=22246607; see also Zach Robinson, *MO Gov. Nixon Signs Bill Banning Ticket Quotas, Helping Ex-Criminals Clear Records*, KFVS (July 13, 2016), <http://www.kfvs12.com/story/32437562/mo-gov-nixon-signs-bill-banning-ticket-quotas-helping-ex-criminals-clear-records>.

104. Robinson, *supra* note 103. This was not the first time since the 2012 enactment of section 610.140 that the Missouri legislature proposed to expand on the section’s limited scope. A similar bill allowing for the expansion of expungement was introduced in the Missouri House in 2014 but failed to gain traction. See H.R. 1394, 97th Gen. Assemb. (Mo. 2014), <https://house.mo.gov/billtracking/bills141/hlrbill-spdf/4531L.01I.pdf>.

105. See MO. REV. STAT. § 610.140 (2018).

individuals to seek expungement sooner, and takes much of the discretion away from the courts when determining whether an individual petitioning for expungement has successfully met his or her burden of proof.¹⁰⁶

A. Missouri Criminal Record Expungement Post Senate Bill 588

Senate Bill 588 eliminates the narrow list of expungement-eligible offenses and instead lists only those that cannot be removed, greatly expanding the expungement-eligible crimes to include nearly two thousand offenses.¹⁰⁷ It accomplishes this by revising section 610.140 for the first time since its 2012 enactment. The original section 610.140 specifically enumerated thirteen instances in which the law permitted a person to petition for expungement; the new law allows blanket expungement of all felonies and misdemeanors subject to a lengthy list of exceptions.¹⁰⁸ Those exceptions include any class A felony offense,¹⁰⁹ any felony that the Missouri statutes define as “dangerous,”¹¹⁰ any offense that requires registration as a sex offender,¹¹¹ any felony where death is an element of the offense,¹¹² any felony involving assault or kidnapping,¹¹³ any driving offenses involving liquor or individuals with commercial driver’s licenses,¹¹⁴ and approximately sixty other offenses.¹¹⁵

Those sixty other offenses are made up of an assortment of seemingly random statutes that vary in severity including, but not limited to, stealing,¹¹⁶ forgery,¹¹⁷ fraudulent use of a credit or debit card,¹¹⁸ identity theft,¹¹⁹ certain

106. *Id.*

107. *See id.* § 610.140.2.

108. *Compare* MO. REV. STAT. § 610.140 (2012), *with* MO. REV. STAT. § 610.140 (2018).

109. MO. REV. STAT. § 610.140.2(1) (2018).

110. *Id.* § 610.140.2(2). The definition of “dangerous felony” can be found in *id.* § 556.061.

111. *Id.* § 610.140.2(3).

112. *Id.* § 610.140.2(4).

113. *Id.* § 610.140.2(5).

114. *Id.* § 610.140.2(7). Certain liquor related driving offenses are still eligible for expungement under a different Missouri statute, *id.* § 610.130, however, the waiting period prior to expungement is ten years instead of the three years generally required of a misdemeanor, *id.* § 610.140.2.

115. *Id.* § 610.140.2(6).

116. *Id.* § 570.030.

117. *Id.* § 570.090.

118. *Id.* § 570.130.

119. *Id.* § 570.223.

crimes involving weapons,¹²⁰ money laundering,¹²¹ perjury,¹²² arson,¹²³ endangering the welfare of a child,¹²⁴ trespass to railroad property,¹²⁵ making terrorist threats,¹²⁶ and performing abortions without being a licensed medical professional.¹²⁷

Further, unlike the original section 610.140 where, upon the determination that all qualifications and prerequisites were met, the court “*may* enter an order for expungement,”¹²⁸ the section now demands that a court “*shall* enter an order of expungement.”¹²⁹

B. Process for Expungement

Even if a person has an expungement-eligible conviction under the revised section 610.140 on his or her criminal record, the statute still identifies several other criteria a person must meet before he or she can successfully file a petition for expungement.¹³⁰

The first is that individuals with misdemeanor convictions cannot file petitions until three years have passed since the completion of their sentence; those individuals with felony convictions must wait seven years.¹³¹ Those waiting times used to be ten and twenty years, respectively.¹³² Further, individuals seeking expungement of a record are required to prove that they have had no other misdemeanor or felony adjudications since they completed their sentence or probation,¹³³ have paid their fines and restitution, and have no pending charges.¹³⁴

Once those preliminary hurdles have been cleared, a person may apply to any Missouri court in which he or she was found guilty of an expungable offense and petition to have it expunged.¹³⁵ The individual can apply to have one or more offenses expunged so long as he or she lists all the offenses he or she

120. *See, e.g., id.* § 571.030; *id.* § 571.060.

121. *Id.* § 574.105.

122. *Id.* § 575.040.

123. *Id.* § 569.050.

124. *Id.* § 568.045.

125. *Id.* § 389.653.

126. *Id.* § 574.115.

127. *Id.* § 334.245.

128. MO. REV. STAT. § 610.140.7 (2012) (emphasis added).

129. MO. REV. STAT. § 610.140.7 (2018) (emphasis added).

130. *See id.* § 610.140.

131. *Id.* § 610.140.5(1).

132. MO. REV. STAT. § 610.140.5 (2012).

133. Convictions of minor traffic violations are excluded from this requirement. MO. REV. STAT. § 610.140.7 (2018).

134. *Id.*

135. *Id.* § 610.140.1.

is seeking to have expunged in the same petition and all such offenses are eligible.¹³⁶

Missouri law requires the petition to “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, [or] infractions listed in the petition.”¹³⁷

The attorney who prosecuted the offense will then be given notice by the clerk of the court that the petition was filed in and allowed an opportunity to object to the petition for expungement.¹³⁸ If the prosecutor does not file an objection, the court will set a hearing, which will be open to all parties named in the petition.¹³⁹

If the court determines that each offense listed in the petition for expungement meets all of the criteria required under section 610.140, that the petitioner’s “habits and conduct demonstrate that the petitioner is not a threat to the public safety of the state,” and that “expungement is consistent with the public welfare and the interests of justice warrant the expungement,” the court must enter an order of expungement.¹⁴⁰

According to the revised section 610.140, no more than one felony offense and two misdemeanors may be expunged from a person’s record during his or her lifetime.¹⁴¹ If a person was charged with multiple crimes stemming from the same indictment or “course of criminal conduct,” all of those offenses may be included in a petition and will count as only one expungement towards the lifetime limit.¹⁴²

Lawmakers imposed a charge of \$250 on all petitions, but a judge may waive the fee for an indigent individual who is unable to pay the cost.¹⁴³ Lawmakers further required that courts make a form available for pro se petitioners seeking expungement.¹⁴⁴

136. *Id.*

137. *Id.* § 610.140.3. “The court’s order of expungement [is not binding] on any person or entity not named as a defendant in the action.” *Id.*

138. *Id.* § 610.140.5. If the prosecutor chooses to object to an order of expungement, “he or she must do so in writing within [thirty] days after receipt of service.” *Id.* If the prosecutor does file a timely objection, then the court is required to hold a hearing within sixty days. *Id.*

139. *Id.*

140. *Id.* § 610.140.5.

141. *Id.* § 610.140.12.

142. *Id.* § 610.140.1.

143. *Id.* § 488.650.

144. *Id.* § 610.140.13.; see *Petition for Expungement – Section 610.140, RSMo., COURTS MO.*, <https://www.courts.mo.gov/file.jsp?id=56341> (last visited Mar. 11, 2019).

C. Result of Expungement

Once the court enters the expungement order, “a copy of the order [will] be provided to the petitioner and each entity possessing records subject to the order.”¹⁴⁵ Each entity upon receiving the order of expungement must then “close any record in its possession relating to any offense, violation, or infraction listed in the petition.”¹⁴⁶

Unlike the original section 610.140, where records in the possession of any entity named in the petition were to be “destroyed,” except for court records,¹⁴⁷ after the passing of Senate Bill 588, expunged records, including court records, will now be “closed.”¹⁴⁸ In general, closed records will not be available to the public but will remain available to criminal justice agencies and to a number of public entities for use in screening out applicants for licenses or employment in sensitive areas, such as private security; law enforcement; employers entitled to the information under state or federal law; and employment involving care of children, the elderly, and/or the disabled.¹⁴⁹ Closed records will also be available to law enforcement for use in issuing firearm purchase and possession permits.¹⁵⁰ While the revised section 610.140 retains the provision stating that an expunged conviction shall not be grounds for automatically disqualifying an applicant from employment, the provision no longer applies in connection with employment by banks, insurers, and employers required by state or federal law to exclude applicants with certain convictions.¹⁵¹

IV. DISCUSSION

Section A discusses the positive impacts that Senate Bill 588 will have on Missouri residents by detailing the beneficial effects of both expanded employment opportunities and the restoration of civil rights. Conversely, Section B addresses the shortcomings of Senate Bill 588 and identifies situations in which the revised section 610.140 will now provide inconsistent expungement results. Finally, Section C contemplates opportunities for the Missouri legislature to further expand expungement in the State of Missouri.

A. Positives of Senate Bill 588

Missouri legislators should be lauded. When a person with a criminal record is denied equal opportunities for employment, it becomes more difficult

145. *Id.*

146. *Id.*

147. MO. REV. STAT. § 610.140 (2012).

148. MO. REV. STAT. § 610.140.7 (2018).

149. *Id.* § 610.120.

150. *Id.*

151. *Id.* § 610.140.9.

for him or her to stay out of trouble with the law.¹⁵² Meaningful employment is vital to persons re-entering society from prison because persons with criminal records who establish a stable working environment are much less likely to reoffend.¹⁵³ By passing Senate Bill 588, the Missouri legislature acknowledged this truth and took the first step towards addressing it by helping to level the playing field between non-offenders and non-reoffenders and providing expanded employment opportunities to people who are most sorely in need of stable employment.

Under the revised section 610.410, because most convictions, including those involving the interference with suffrage rights,¹⁵⁴ can now be expunged, certain individuals who previously had been stripped of their rights to vote, hold office, serve on a jury, or possess firearms can now see those rights restored. The revised section 610.140 specifically states that “[t]he [expungement] 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.”¹⁵⁵ While that particular benefit is not a new addition under Senate Bill 588, as it was also offered by the original section 610.140,¹⁵⁶ the impact it carries moving forward will be far more substantial.

Previously, only thirteen specific criminal convictions were expungable, which included only two potential felonies.¹⁵⁷ This meant that nearly all felons had to permanently surrender their right to possess firearms or risk going to jail. Further, any person who had been convicted of a felony or misdemeanor in connection with the right of suffrage had to forego his or her civil right to vote and hold office permanently.¹⁵⁸ With the passage of Senate Bill 588, many felonies and most suffrage-related convictions can now potentially be expunged. This, combined with expanded expungement eligibility encompass-

152. See Michael L. Foreman, *Meeting on Employment Discrimination Faced by Individuals with Arrest and Conviction Records* (Nov. 20, 2008), <http://www.eeoc.gov/eeoc/meetings/11-20-08/foreman.cfm> (“Placement programs that specialize in rehabilitating ex-offenders frequently note the inverse correlation between recidivism rates and employment opportunities.”).

153. See Roberts, *supra* note 39, at 333 (“[S]tudies showing that individuals with criminal records who are able to work have lower recidivism rates.”).

154. See MO. REV. STAT. § 115.133.2 (“No person shall be entitled to vote . . . [a]fter conviction of a felony or misdemeanor connected with the right of suffrage.”); see also *id.* §§ 115.633–.637 (expungement-eligible elections offenses).

155. *Id.* § 610.140.8.

156. See MO. REV. STAT. § 610.140 (2012).

157. *Id.* (citing *id.* § 570.120 and *id.* § 570.130).

158. *Id.* § 115.133.2(3); see also MO. CONST. art. VIII, § 2 (persons convicted of felony or crime connected with suffrage may be excluded from voting); MO. REV. STAT. § 561.026(2) (“a person who is convicted [o]f a felony or misdemeanor connected with the exercise of the right of suffrage shall be forever disqualified from registering and voting”).

ing more than a thousand additional offenses, provides an avenue for the restoration of rights to a large group of Missourians who were previously disenfranchised.

B. Shortcomings of Senate Bill 588

Overall, the passing of Senate Bill 588 now puts Missouri ahead of most other states regarding criminal record clearing availability. However, there are a few additional steps that the Missouri legislature could take if it truly wants to stay at the forefront of the recent expungement expansion trend. For instance, Missouri could follow the lead of other states and create statutes that mandate automatic expungement – where no petition is necessary – in cases that either do not get far past the initial stages of arrest or amount only to a misdemeanor.¹⁵⁹ Automatic expungement saves judicial and individual resources and mitigates the problem of unawareness of the expungement remedy.¹⁶⁰

Additionally, the Missouri legislature could work to further narrow the handful of select criminal charges that it currently carves out as being non-expungable.¹⁶¹ For instance, as a result of Missouri Revised Statutes section 389.653 – regarding trespass to railroad property, which is listed as one of the specifically enumerated statutes for which expungement is not available¹⁶² – a criminal conviction resulting from a person who throws a rock at another person would be expungable, whereas a conviction in which an individual “throws an object at a railroad train” would not.¹⁶³ Even a layperson would agree that this type of inconsistency does not produce a logical result.

There are other obvious shortcomings of Senate Bill 588. While much of the discussion in this Part has centered around the positive impact that expungement can have on securing employment, in at least one instance the revised law has the effect of denying the opportunity to expunge an offense because of a person’s employment. The revised section 610.140 now expressly prohibits individuals from expunging driving-related offenses “when committed by an individual who has been issued a commercial driver’s license or is required to possess a commercial driver’s license.”¹⁶⁴ A large group of truckers, school bus drivers, and even construction workers depend on having a

159. See MINN. STAT. ANN. § 299C.11 (West 2018) (“No petition [for expungement] is required if . . . (1) all charges were dismissed prior to a determination of probable cause; or (2) the prosecuting attorney declined to file any charges and a grand jury did not return an indictment.”).

160. Kansas law contains a provision concerning notice that requires that individuals be informed throughout the criminal process of the possibility of petitioning for expungement, especially upon release from confinement or probation. KAN. STAT. ANN. § 21-6614(j) (West 2018).

161. See MO. REV. STAT. § 610.140.2 (2018).

162. *Id.* § 610.140.2(6).

163. *Id.* § 389.653.

164. *Id.* § 610.140.2.

commercial license for their livelihood. However, the revised section 610.140 now creates a scenario where an individual without a commercial license who has been convicted of driving under the influence ultimately can seek and receive expungement,¹⁶⁵ yet an individual convicted of exceeding the speed limit by ten miles per hour will be permanently stuck with a misdemeanor on his or her record by virtue of merely possessing a commercial license.¹⁶⁶

Whether this consequence was intended or not, the inconsistency it creates is unfortunate. If, as former Governor Nixon stated, Senate Bill 588 was, at least in part, aimed at helping Missourians who “deserve a chance to get a job and support their families,” then why deny individuals the other collateral benefits of expungement based solely on the employment or licensing that they already possess?¹⁶⁷

C. Opportunities for Improvement

Even after the passage of Senate Bill 588, the process of expungement in Missouri is still a burdensome one. An offender must petition a court, join multiple parties, pay the necessary fees, and give prosecutors and state agencies an opportunity to object.¹⁶⁸ In most instances, this process typically requires legal representation and ultimately ends up being timely and cost prohibitive.¹⁶⁹ Further, because Missouri courts are given at least some discretion in determining whether an expungement is “consistent with the public welfare” and warranted by interests of justice, it is conceivable an applicant could go through the process of hiring representation and paying the filing fee but ultimately walk away several hundred dollars poorer and with his or her criminal record still intact.¹⁷⁰

It is in this regard that Missouri could take the lead from states like Massachusetts in providing for a much more streamlined process. In Massachusetts, an individual seeking to seal a conviction record can simply fill out a one-page “Petition to Seal” form that will automatically be accepted so long as the individual has met the eligibility requirements.¹⁷¹ Further, although the passing of Senate Bill 588 dramatically reduced the amount of waiting time required by section 610.140 before individuals can seek expungement, several states have enacted statutes that allow ex-offenders to seal or expunge their records in a shorter timeframe than allowed by the Missouri statute.¹⁷² In order

165. *See id.* § 610.130.

166. *See id.* § 610.140.5.

167. *See* Robinson, *supra* note 103.

168. MO. REV. STAT. § 610.140.

169. The charge imposed on the filing of a petition alone is \$250. *Id.* § 488.650.

170. *Id.* § 610.140.5.

171. MASS. GEN. LAWS ANN. ch. 276, § 100C (West 2018).

172. *See* ARK. CODE ANN. §§ 16-90-1405 & 1406 (West 2018) (allowing individuals to petition to seal records after sixty days in the case of a misdemeanor and five years in the case of an eligible felony offense); OHIO REV. CODE ANN. § 2953.32(A)(1) (West 2018) (permitting individuals to seek to seal their records one year after their

to provide a more meaningful and efficacious opportunity for rehabilitation, Missouri needs to provide more rapid access to criminal record sealing by further shortening this mandatory waiting period.

V. CONCLUSION

Thanks to the Missouri legislature and its passage of Senate Bill 588, thousands more Missouri residents will now have an easier path towards gainful employment and restoration of civil rights through expanded expungement. In most instances, people who have made mistakes caused by momentary lapses in judgement should not be held to account for those mistakes for the remainder of their lives – particularly after their debt to society has been paid. The Missouri legislature recognized this truth and, in doing so, took yet another important “statewide step in the right direction.”¹⁷³

sentence is completed for a misdemeanor conviction and three years after their sentence is completed for an eligible felony conviction).

173. *See generally* Chinnadurai, *supra* note 42.

