



EXPUNGING A CRIMINAL RECORD IN MISSOURI - 2025

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Basics of Missouri Expungement Law

The primary criminal record expungement law in Missouri is found in § 610.140 RSMo. This is the most common source of expungements.

There are other statutes that provide specific types of expungements. Among them are:

- First misdemeanor DWI expungement - § 610.130,
- Arrest expungement, no probable cause - § 610.122
- Marijuana offense expungement - Article XIV, §2 of the Missouri Constitution

This presentation will cover only § 610.140, as amended and effective January 1, 2025.

Note: This statute *applies only* to Missouri *state* criminal records. There is currently no statute for expungement of federal criminal records.

Eligibility for Expungement – the Basics

Eligibility under § 610.140 is largely based on four factors:

- Is the *offense* eligible for expungement?
- Does the Applicant deserve a second chance?
 - Has the Applicant completed their sentence?
 - Have they met the required waiting period for each offense?
 - Have they paid all fines, fees, and restitution for each offense?
 - Do they have any pending cases?
- Will this expungement exceed lifetime limits?
- There are also discretionary factors the court will consider

Eligibility: Is Offense of Conviction Excluded?

- Under Missouri law, an offense can be expunged *unless* it falls within one of the exceptions in § 610.140.3.
- Unlike many other jurisdictions, the question in Missouri is not whether the offense is a felony or misdemeanor, but rather whether it is on the “excluded” list.
- It is estimated that more than 1900 offenses qualify for expungement.

Eligibility: Is Offense of Conviction Excluded?

- There are 11 categories of exceptions in the statute.
- They include:
 - The most serious offenses – Class A, “dangerous felonies,” felony where death is an element”, felony assaults, domestic assaults, offenses requiring sex offender registration, most weapons offenses
 - Intoxication-related traffic, boating, and aircraft offenses, operation of motor vehicles by those who have been issued or are required to have a CDL
 - Ordinance violations that are the substantial equivalent of an ineligible offense
 - A list of approximately 85 miscellaneous offenses

Eligibility: Passage of Time

Eligibility under § 610.140.6(1) requires that:

At the time the petition is filed,

- *at least three years have passed* if the offense is a *felony*, or
- *at least one year has passed* if the offense is a *misdemeanor, municipal offense, or infraction*,

from the date the petitioner completed their sentence for each offense, violation, or infraction listed in the petition.

This is sometimes called the “waiting period.”

Eligibility: Timing and Other Offenses

Eligibility under § 610.140.6(2) requires that:

- The person *has not been found guilty* of any other *misdemeanor or felony* (not including violations of most traffic regulations) during the one- or three-year period specified in the previous section.
 - This is sometimes called the “clean waiting period.”
- That period *runs backwards from filing the Petition* and not forward from completion of sentence.

Eligibility: Calculating Time - Policy

The reason for calculating time in that way is because:

“The *purpose* of expungement is to provide *a second chance* to persons who have had prior criminal offenses but have *shown* by their more *recent conduct* that they have *rehabilitated* themselves and *deserve the second chance . . .*”

“The legislature was focused on the *time immediately prior* to the *filing of the petition* for expungement because that is the period of time that would *determine if* the *petitioner* had *changed their behavior* so as to *meet the statutory qualifications* for expungement and *deserve the second chance* provided by the statute.”

Eligibility: Is Applicant Deserving of a Second Chance?

Eligibility under §610.140.6 (3) and (4) requires that:

- The person has *satisfied all obligations* relating to the sentence for the offense they seek to expunge, including payment of any fines, fees or restitution.
 - Meeting one's financial obligations related to the offense would appear to show rehabilitation and worthiness of a second chance.
 - Unfortunately, this requirement can be a major barrier for some expungement-seekers of low and moderate means.
- The person *does not have any charges pending*, including traffic or open warrants.

Eligibility: Is Applicant Deserving of a Second Chance?

Eligibility under §610.140.6 (5) – (6) requires that:

- The petitioner's habits and conduct demonstrate that the petitioner is not a threat to the public safety of the state;
- The expungement is consistent with the public welfare and the interests of justice warrant the expungement.

Once a Petitioner alleges that the first four requirements are met, and pleads that Petitioner meets the requirements of the last two, a *rebuttable presumption* is created that the expungement is *warranted* and *shifts the burden* of proof to the prosecuting attorney to show why it is not.

If the Prosecutor does not make that showing, the expungement should be granted.

Eligibility: Lifetime Limits

Section 13 of the statute poses a significant barrier to full and effective expungement for many people with criminal records.

- The *lifetime limit* for expungement under § 610.140.13 is:
 - *Two felonies, and*
 - *Three misdemeanors or ordinance violations that have an authorized term of imprisonment*
- There is *no* limit on how many *infractions* may be expunged.

Note: these limits only apply to expungements under § 610.140 and not to expungements under any other statute. § 610.140.15.

Eligibility: Lifetime Limits

In limited circumstances, a person may expunge more convictions than the limits seem to allow.

Section 610.140.2 provides:

- Where offenses “were committed as *part of the same course of criminal conduct,*”

only “the highest-level offense” within that course of conduct counts in determining whether the lifetime limits will be exceeded.

Unfortunately, a recent Missouri Appeals Court decision has made this standard very difficult to meet.

Eligibility: Same Course of Criminal Conduct

- As the law currently stands, you cannot use “same course of criminal conduct” where two independent acts are strung together to create a course of conduct.
 - Example: Sale of drugs 3/20/24, second sale 3/24/24, in same indictment. These two separate offenses, with non-criminal conduct between them, do not constitute the “same course of criminal conduct.”
- Where the offenses are committed simultaneously, or in rapid succession, the offenses are more likely to be construed as part of the “same course of criminal conduct.”
 - Example: Sale of drugs (meth), defendant arrested, police find cocaine and a gun in defendant’s possession. Defendant convicted of sale of meth, possession of cocaine, and possession of a firearm while knowingly in possession of a controlled substance. This is more likely to be construed as “same course of criminal conduct,” and would likely count as the highest felony in this group of offenses.

Self-check: Have I met all the requirements?

- The charts on the next two pages take you through determining eligibility for felony and misdemeanor offenses. By answering the questions and following the arrows, you can determine if you meet the eligibility requirements.
- The charts are confusing to some people, and if you find it confusing, just don't use it.
- We are currently testing a technology tool that our tech team developed and that we hope will make getting expungement of relatively simple cases much easier than it is now.

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IS THE OFFENSE YOU SEEK TO EXPUNGE ELIGIBLE UNDER MISSOURI LAW?
Note: "Eligible" means legally permitted to be expunged.

If you're unsure, check the Offense Eligibility Lookup List.

NO
YES

You are not currently eligible for expungement. ❌

HAS IT BEEN 3+ YEARS SINCE YOU COMPLETED ANY REQUIRED PROBATION, PAROLE, OR INCARCERATION FOR THE OFFENSE?

NO

YES

You are not eligible for expungement at *this time*, BUT you may become in the future if you meet the remaining requirements.

Currently, you cannot get more than one Missouri felony expunged. ❌

You are likely eligible for a Missouri expungement! ✅

IN THE LAST 3 YEARS, HAVE YOU BEEN FOUND GUILTY OF ANY NON-TRAFFIC RELATED MISDEMEANOR OR FELONY?

YES

NO

YES

NO

DO YOU NEED MORE THAN ONE FELONY EXPUNGED?
Note: If you have multiple felonies that were charged in the same case or part of the same "course of criminal conduct," they only count as one felony for expungement purposes.

YES

NO

HAVE YOU PAID ALL (1) FINES, (2) COURT FEES AND (3) RESTITUTION IN THE CASE YOU SEEK TO EXPUNGE?
Note: It's a good idea to double-check by looking up your case at www.courts.mo.gov/cnet. Click on your case, and then click the [P] button. If your case balance is \$0.00, the answer to this Q is 'YES'.

NO

YES

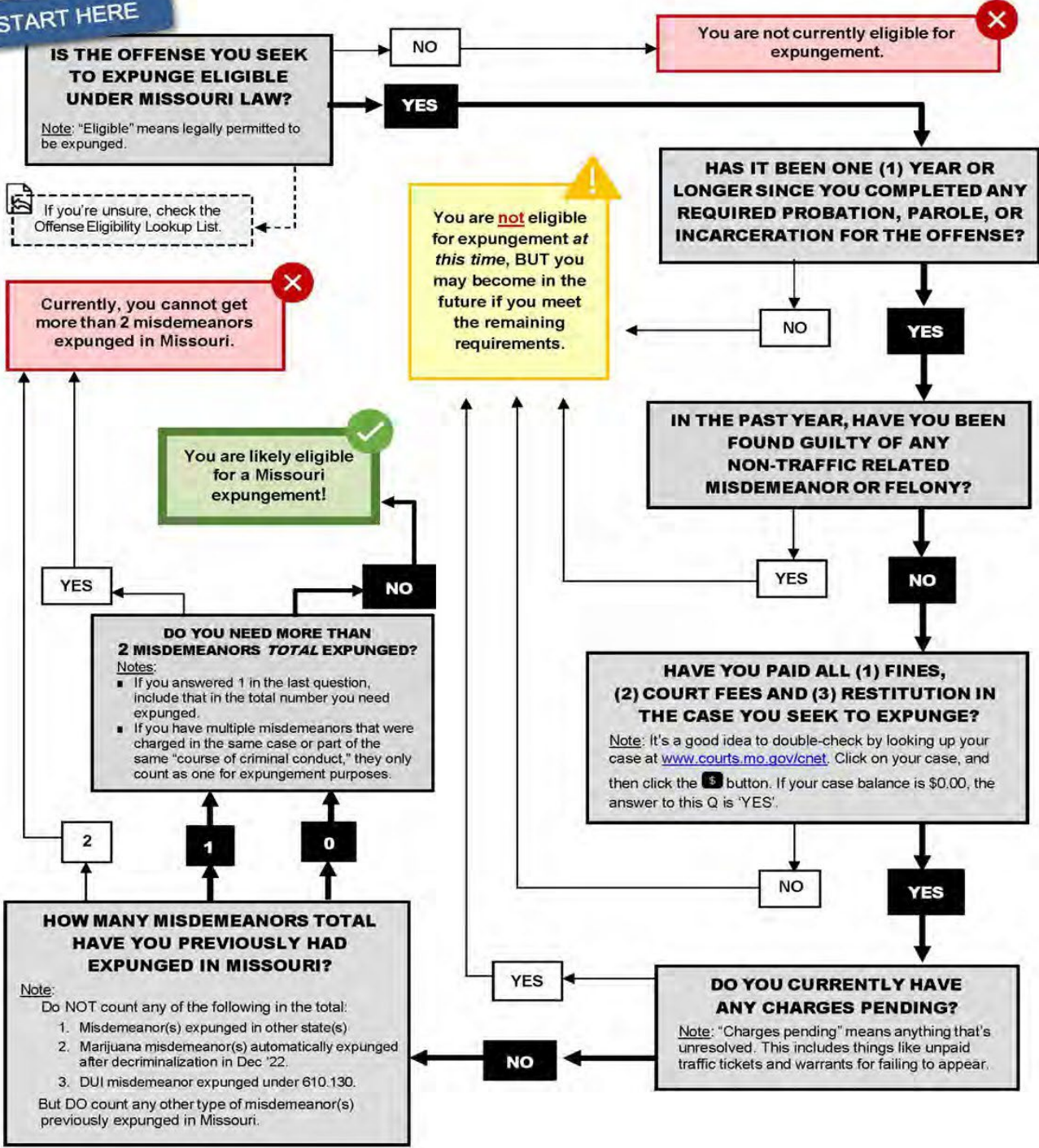
HAVE YOU EVER GOTTEN A FELONY EXPUNGED IN MISSOURI BEFORE?
Notes:
Answer 'NO' here if you've only had the any of the following previously expunged:
1. Felony Nonsupport under 568.040
2. Felony or felonies from other state(s)
3. Marijuana felony or felonies automatically expunged after decriminalization in Dec '22
But answer 'YES' if you've previously had any other type of felony expunged in Missouri.

YES

NO

DO YOU CURRENTLY HAVE ANY CHARGES PENDING?
Note: "Charges pending" means anything that's unresolved. This includes things like unpaid traffic tickets and warrants for failing to appear.

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If Eligible: What Do You Get?

- When a person is granted an expungement in Missouri, what do they actually get?
- Expungement under § 610.140 is a process of sealing, or hiding, a past record from the public. It elevates the record's confidentiality level, but the records are not destroyed. Expungement does not make the arrest, plea, or conviction “go away.”
- There are situations in which the courts, law enforcement, and others (including certain employers and licensing agencies) can obtain access to expunged records.

If Eligible: What Do You Get?

Section 610.140.8 provides that, once an order of expungement is issued and an entity possessing records subject to the order receives it, such entity

- “*shall close any record* in its possession relating to any offense” listed in the petition
- The records and files maintained for any offense ordered expunged *shall be confidential and only available* to the parties or *by order of the court for good cause shown*.
- The central repository shall request that the Federal Bureau of Investigation expunge all records relating to the expunged offense(s) from its files.

If Eligible: What Do You Get?

Section 610.140.9 provides:

- 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 *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.*

If Eligible: What Do You Get?

As a result of a recent amendment of the statute, Section 610.140.9 now provides this additional language, which is a significant expansion of the law.

- 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*.

The Legislature also amended subsection 9 several times to make it clear that a person who receives an expungement under 610.140 is permitted to have ownership and possession of firearms as if they had never been convicted.

- The Missouri State Highway Police had a glitch in their system that continued to flag people with felony convictions who attempted to buy a firearm even though they had received an expungement, but MSHP has been ordered by a judge to get their system working properly.

If Eligible: What Do You Get?

Section 610.140.9 is of crucial importance to expungement-seekers because it provides:

- No person who has received an order of expungement *shall be held to be guilty of perjury or otherwise giving a false statement for failure to state or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made to them.*
- Section 9 further provides that “no such inquiry shall be made for information relating to an expungement”

This apparently broad right not to be required to disclose an expunged offense and not to be asked about it, however, has several exceptions.

If Eligible: What Do You Get?

Section 610.140.9 goes on to provide:

- a person who has received an expungement *shall disclose* the expunged offense *to any court* when asked or upon being *charged with any subsequent offense*.
- The expunged offense *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.
- In addition, 610.140's reference to 610.120 in subsection 8 provides that access is available to law enforcement in the exercise of some duties, DOR for licensing purposes, DHSS for purposes of screening for certain types of jobs, and other specialized situations.

If Eligible: What Do You Get?

Section 9 provides that notwithstanding § 8, a person granted an expungement *shall disclose when necessary to complete* an application for certain licenses, permits, or employment.

This includes:

- permits or licenses to practice a profession or related to gaming or firearms (1)-(2),
- employment with certain gaming operations, any state-operated lottery, any emergency services provider, and in some circumstances federally insured banks, savings institutions or credit unions, or entities engaged in the business of insurance,
- or “with any employer that is required to exclude applicants with certain criminal convictions from employment due to federal or state law” (3)-(6).

If Eligible: What Do You Get?

Section 610.140.9 provides:

- *an expunged offense shall not be grounds for automatic disqualification*, but may be a factor for denying employment, or a professional license, certificate, or permit;
- an expunged offense may be grounds for *automatic disqualification*, however, if the application is for employment *under subdivisions (4) to (6)* of this subsection (federally required inquiries).
- an employer must notify an applicant of the requirement to disclose under (4) to (6) of this subsection.

How Do You Get It? – Procedure - Petition

Essentially:

- To seek an expungement, you need to file a civil case in the county where they were charged or convicted.
- This begins with filing a petition.
- There is a form you should use that has been developed by the court. This form is available from the Circuit Court Clerk or at <https://www.courts.mo.gov/file.jsp?id=56341>
- All law enforcement agencies, courts, prosecuting attorneys' offices, the Central Repository, and others *who petitioner believes may have records relating to the offenses to be expunged* shall be named as defendant/respondents.

How Do You Get It? – Procedure – Fees and Waiver

- Generally, filing fees must be paid at the time of filing your Petition in court.
- Civil filing fees vary by Circuit, with most fees in the range of \$90 to \$115.
- The court may waive the fees if the you are found to be indigent.
- To seek a fee waiver, you need to submit a court form (available from the Clerk's Office), fill it out with your financial information, and give it to the court when you file your petition.
- If the waiver is granted, you will not be required to pay the filing fee.

How Do You Get It? – Procedure –Service of Process

- Once the case is filed, the petition and a summons (issued by the court) must be “served” on each Respondent.
- You must do the service of process, unless the Clerk’s Office in your Circuit will do it for you.
 - Note: **In St. Louis County**, they don’t issue summonses. Instead, they use a “Notice of Hearing” form, which the Clerk’s Office sends to each Respondent. Check with the Clerk to see if you need to fill out the forms and provide them to the Clerk.
- Some courts will do the service for you for a set fee (around \$10).
- There is an average of 5-6 Respondents in each case. Service by certified mail is permitted, which costs close to \$10 per agency. First class mail, which is a lot cheaper, may be possible in some cases.
- If you have received a fee waiver, the court should pay for service.

How Do You Get It? – Procedure - Hearing

- Once service is complete, the Prosecutor has thirty days to object in writing. Other parties may file objections as well.
- If an objection is filed, the court must hold a hearing within 60 days.
- It is unclear whether a hearing is required in all cases, but most judges treat the law as requiring a hearing.
- Once your service is complete and responses are filed with the clerk's office, wait 30 days. Once the 30 days have run, contact the clerk's office to see if a hearing has been scheduled, and if so, when.
- If a hearing has not been scheduled, ask how you go about getting a hearing. You may have to file a Notice of Hearing form.

How Do You Get It? – Procedure – Final Steps

- At the hearing, the court usually hears testimony from Petitioner to show that the criteria for expungement are met. See slides 6-16.
- If the court finds the Petitioner meets all the criteria, the court shall enter an order of expungement. Usually, that happens in court.
- The court is required to issue an order of expungement or dismissal within six months of the filing of the petition.
- If the judge issues the expungement, the court must *provide a copy of the expungement order to petitioner and all Respondents, who are thereby ordered to close their relevant records.*
- If the court determines that no offense meets the criteria for expungement, or that petitioner has knowingly provided false information, the court shall dismiss the petition, which cannot be refiled for a year.

Resources

- Clear My Record Missouri has a lot of useful information on its website at clearmyrecordmo.org.
- If you decide to seek an expungement “pro se,” our new Pro Se Guide (for use beginning in 2025) is on our website. It takes you step by step through the entire process. It also has a forms Portfolio with all the forms you will need.
- We are currently testing a technology tool that our team has developed that we hope will make seeking an expungement much easier, at least for less complicated cases.
- After testing is completed, we hope to make the tool available for public use. Watch our website for an announcement.