

House File 2052 - Introduced

HOUSE FILE 2052

BY JONES

A BILL FOR

1 An Act relating to persons under the influence of controlled
2 substances in public places, and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 124.401H Public intoxication —
2 controlled substances — notifications — expungement.

3 1. As used in this section, unless the context otherwise
4 requires:

5 *a.* "Arrest" means the same as defined in section 804.5 and
6 includes taking into custody pursuant to section 232.19.

7 *b.* "Chemical test" means a test of a person's blood or urine
8 to determine the presence of a controlled substance.

9 *c.* "Intoxicated" or "intoxication" means the condition of
10 having physical or mental control markedly diminished by the
11 effects of a controlled substance.

12 *d.* "Peace officer" means the same as defined in section
13 801.4.

14 2. *a.* A person in a public place shall not be under the
15 influence of a controlled substance or have any amount of
16 a controlled substance present in the person, as measured
17 in the person's blood or urine. A person violating this
18 subsection commits public intoxication and is guilty of a
19 simple misdemeanor.

20 *b.* This subsection does not apply to a person under
21 the influence of a controlled substance if the controlled
22 substance was prescribed for the person and was taken under the
23 prescription and in accordance with the directions of a medical
24 practitioner, as defined in chapter 155A, or if the substance
25 was dispensed by a pharmacist without a prescription pursuant
26 to the rules of the board of pharmacy.

27 3. When a peace officer arrests a person on a charge of
28 public intoxication due to a controlled substance under this
29 section, the peace officer shall inform the person that the
30 person may have a chemical test administered at the person's
31 own expense. In a prosecution for public intoxication due to
32 a controlled substance, evidence of the results of a chemical
33 test performed under this subsection is admissible upon proof
34 of a proper foundation.

35 4. *a.* A peace officer shall make a reasonable effort to

1 identify a person under the age of eighteen who violates this
2 section and refer the person to juvenile court.

3 *b.* A juvenile court officer shall notify the person's
4 custodial parent, legal guardian, or custodian of the
5 violation. In addition, the juvenile court officer shall
6 make a reasonable effort to identify the elementary or
7 secondary school the person attends, if any, and to notify the
8 superintendent of the school district or the superintendent's
9 designee, or the authorities in charge of the nonpublic school,
10 of the violation. A reasonable attempt to notify the person
11 includes but is not limited to a telephone call or notice by
12 first-class mail.

13 5. Upon the expiration of two years following conviction for
14 a violation of this section or of a similar local ordinance, a
15 person may petition the court to expunge the conviction. If
16 the person has had no other criminal convictions, other than
17 local traffic violations or simple misdemeanor violations of
18 chapter 321 during the two-year period, the conviction shall
19 be expunged as a matter of law. The court shall enter an
20 order that the record of the conviction be expunged by the
21 clerk of the district court. Notwithstanding section 692.2,
22 after receipt of notice from the clerk of the district court
23 that a record of conviction has been expunged, the record of
24 conviction shall be removed from the criminal history data
25 files maintained by the department of public safety if such a
26 record was maintained in the criminal history data files.

27 Sec. 2. Section 124.411, subsection 3, Code 2024, is amended
28 by adding the following new paragraph:

29 NEW PARAGRAPH. *c.* An offense under section 124.401H,
30 subsection 2.

31 Sec. 3. Section 125.34, subsection 1, Code 2024, is amended
32 to read as follows:

33 1. A person with a substance use disorder due to
34 intoxication or substance-induced incapacitation may come
35 voluntarily to a facility for emergency treatment. A person

1 who appears to be intoxicated or incapacitated by a substance
2 in a public place and in need of help may be taken to a facility
3 by a peace officer under [section 125.91](#). If the person refuses
4 the proffered help, the person may be arrested and charged with
5 intoxication under [section 123.46](#) or [124.401H](#), if applicable.

6 Sec. 4. Section 232.22, subsection 3, paragraph c,
7 subparagraph (1), unnumbered paragraph 1, Code 2024, is amended
8 to read as follows:

9 A room in a facility intended or used for the detention of
10 adults if there is probable cause to believe that the child has
11 committed a delinquent act which if committed by an adult would
12 be a felony, or aggravated misdemeanor under [section 708.2](#)
13 or [709.11](#), a serious or aggravated misdemeanor under section
14 321J.2, or a violation of [section 123.46](#) or [124.401H](#), and if
15 all of the following apply:

16 Sec. 5. Section 232.22, subsection 3, paragraph c,
17 subparagraph (2), Code 2024, is amended to read as follows:

18 (2) However, if the child is to be detained for a violation
19 of [section 123.46](#), [124.401H](#), or [section 321J.2](#), placement in
20 a facility pursuant to this paragraph "c" shall be made only
21 after an attempt has been made to notify the parents or legal
22 guardians of the child and request that the parents or legal
23 guardians take custody of the child. If the parents or legal
24 guardians cannot be contacted, or refuse to take custody of the
25 child, an attempt shall be made to place the child in another
26 facility, including but not limited to a local hospital or
27 shelter care facility. Also, a child detained for a violation
28 of [section 123.46](#), [124.401H](#), or [section 321J.2](#) pursuant to this
29 paragraph "c" shall only be detained in a facility with adequate
30 staff to provide continuous visual supervision of the child.

31 Sec. 6. Section 701.12, subsection 1, Code 2024, is amended
32 by adding the following new paragraph:

33 NEW PARAGRAPH. *0c.* Section 124.401H.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to intoxication by a controlled substance
3 in public places, and provides penalties.

4 The bill provides that a person in a public place shall
5 not be under the influence of a controlled substance or have
6 any amount of a controlled substance present in the person,
7 as measured in the person's blood or urine. The bill does
8 not apply to a person under the influence of a controlled
9 substance prescribed for the person and taken as directed by
10 a medical practitioner or if the substance was dispensed by a
11 pharmacist without a prescription pursuant to the rules of the
12 board of pharmacy. A person violating the bill commits public
13 intoxication and is guilty of a simple misdemeanor. A simple
14 misdemeanor is punishable by confinement for no more than 30
15 days and a fine of at least \$105 but not more than \$855.

16 The bill provides that a peace officer making an arrest for
17 public intoxication by a controlled substance shall inform the
18 person that the person may have a chemical test administered
19 at the person's own expense. In a prosecution for public
20 intoxication due to a controlled substance, evidence of the
21 results of a chemical test performed is admissible upon proof
22 of a proper foundation.

23 The bill provides that a peace officer shall make a
24 reasonable effort to identify a person under the age of 18
25 who violates the bill and refer the person to juvenile court.
26 A juvenile court officer shall notify the person's custodial
27 parent, legal guardian, or custodian of the violation. The
28 juvenile court officer shall make a reasonable effort to
29 identify the elementary or secondary school the person attends,
30 if any, and to notify the superintendent of the school district
31 or the superintendent's designee, or the authorities in charge
32 of the nonpublic school, of the violation.

33 The bill provides that upon the expiration of two years
34 following conviction for a violation of the bill, a person may
35 petition the court to expunge the conviction. If the person

1 has had no other criminal convictions, other than local traffic
2 violations or simple misdemeanor violations of Code chapter
3 321, the conviction shall be expunged as a matter of law.

4 The bill provides that consideration of a second or
5 subsequent offense for purposes of sentencing for a violation
6 of Code chapter 124 (controlled substances) does not apply to a
7 violation of the bill.

8 The bill describes the facilities where a child detained for
9 a violation of the bill may be held.

10 The bill makes conforming Code changes.