

**Senate Study Bill 3028 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON KREIMAN)

**A BILL FOR**

1 An Act relating to expunging the conviction for certain alcohol  
2 related offenses committed by persons under legal age.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, subsection 5, Code 2009, is  
2 amended to read as follows:

3 5. Upon the expiration of two years following conviction  
4 for a violation of this section, a person may petition the  
5 court to ~~exonerate the person of~~ expunge the conviction, and  
6 if the person has had no other criminal convictions, other  
7 than simple misdemeanor violations of chapter 321 during the  
8 two-year period, the ~~person shall be deemed exonerated of~~  
9 ~~the offense~~ conviction shall be expunged as a matter of law.  
10 The court shall enter an order ~~exonerating the person of the~~  
11 ~~conviction, and ordering~~ that the record of the conviction be  
12 expunged by the clerk of the district court.

13 Sec. 2. Section 123.47, Code 2009, is amended by adding the  
14 following new subsection:

15 NEW SUBSECTION. 7. Upon the expiration of two years  
16 following conviction for a violation of subsection 2 or of a  
17 similar local ordinance, a person may petition the court to  
18 expunge the conviction, and if the person has had no other  
19 criminal convictions, other than local traffic violations  
20 or simple misdemeanor violations of chapter 321 during the  
21 two-year period, the conviction shall be expunged as a matter  
22 of law. The court shall enter an order that the record of the  
23 conviction be expunged by the clerk of the district court. An  
24 expunged conviction shall not be considered a prior offense for  
25 purposes of enhancement under subsection 3 or under a local  
26 ordinance unless the new violation occurred prior to entry of  
27 the order of expungement.

28 EXPLANATION

29 This bill relates to expunging certain criminal convictions.

30 The bill modifies provisions relating to expunging the  
31 record of a conviction for public intoxication after two  
32 years. Under the bill, two years after conviction for public  
33 intoxication a person may petition the court to expunge the  
34 record of the conviction if the person has not had other  
35 criminal convictions other than simple misdemeanor violations

1 of Code chapter 321 during the two-year period. Currently, a  
2 person may petition the court to exonerate the person and have  
3 the court enter an order exonerating the person as a matter of  
4 law.

5 The bill establishes a similar expungement provision for  
6 possessing, purchasing, or attempting to purchase alcohol  
7 under legal age and for similar local ordinances. Under the  
8 bill, two years after conviction for possessing, purchasing,  
9 or attempting to purchase alcohol under legal age or under  
10 a similar local ordinance, a person may petition the court  
11 to expunge the record of the conviction if the person has  
12 not had other criminal convictions other than local traffic  
13 violations or simple misdemeanor violations of Code chapter 321  
14 during the two-year period. The bill also provides that the  
15 expunged conviction for possessing, purchasing, or attempting  
16 to purchase alcohol or for a local ordinance shall not be  
17 considered a prior offense for purposes of enhancement under  
18 state law or under a local ordinance unless the new violation  
19 occurred prior to entry of the order of expungement.