

Senate Study Bill 3166 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED CRIMINAL CODE
REORGANIZATION STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act relating to expunging convictions of certain criminal
2 offenses.
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 a
10 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.