

Senate File 2023 - Introduced

SENATE FILE 2023

BY JOCHUM

A BILL FOR

1 An Act relating to the expungement of criminal offenses
2 for alcohol consumption in public, public intoxication,
3 simulated public intoxication, or similar local ordinances,
4 or when a finding of contempt has been entered.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 123.46, subsection 6, Code 2016, is
2 amended to read as follows:

3 6. Upon the expiration of two years following conviction for
4 a violation of this section or of a similar local ordinance, a
5 person may petition the court to expunge the conviction, and if
6 the person has had no other criminal convictions, other than
7 local traffic violations or simple misdemeanor violations of
8 chapter 321 during the two-year period, the conviction shall
9 be expunged as a matter of law. The court shall enter an
10 order that the record of the conviction be expunged by the
11 clerk of the district court. Notwithstanding section 692.2,
12 after receipt of notice from the clerk of the district court
13 that a record of conviction has been expunged, the record of
14 conviction shall be removed from the criminal history data
15 files maintained by the department of public safety if such a
16 record was maintained in the criminal history data files.

17 Sec. 2. Section 907.9, subsection 4, paragraph d, Code 2016,
18 is amended to read as follows:

19 d. A count or related charge that was dismissed shall not be
20 expunged pursuant to paragraph "c" in any case in which a count
21 or charge resulted in a conviction, not including a finding of
22 contempt, that was not expunged.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the expungement of criminal offenses
27 for alcohol consumption in public, public intoxication,
28 simulated public intoxication, or similar local ordinances, or
29 when a finding of contempt has been entered.

30 The expungement process under the bill provides that upon
31 the expiration of two years following conviction for alcohol
32 consumption in public, public intoxication, simulated public
33 intoxication, or similar local ordinance, a person may petition
34 the court to expunge the conviction if the person has had no
35 other criminal convictions, other than local traffic violations

1 or simple misdemeanor violations of Code chapter 321 during
2 the two-year period, and the conviction shall be expunged as a
3 matter of law. The bill further provides that after receipt
4 of notice from the clerk of the district court that a record
5 of conviction for consumption of alcohol in public, public
6 intoxication, simulated public intoxication, or similar local
7 ordinance has been expunged, the record of conviction shall be
8 removed from the criminal history data files maintained by the
9 department of public safety if such a record was maintained in
10 the criminal history data files.

11 Current law provides that the court's criminal record with
12 reference to a deferred judgment, any counts dismissed by the
13 court which were contained in the indictment, information,
14 or complaint that resulted in the deferred judgment, and
15 any other related charges that were not contained in the
16 indictment, information, or complaint but were dismissed, shall
17 be expunged, if the person has paid restitution and other
18 obligations. The amendment to Code section 907.9 provides
19 that finding a person in contempt shall not preclude that
20 person from expunging such records as long as no counts in the
21 indictment or information or any other charges related to the
22 deferred judgment resulted in a conviction.