

House File 238 - Introduced

HOUSE FILE 238

BY OLSON

A BILL FOR

1 An Act relating to the expungement of simple misdemeanors and
2 of violations of similar local ordinances.

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

1 Section 1. Section 123.46, subsection 6, Code 2017, is
2 amended by striking the subsection.

3 Sec. 2. Section 123.47, subsection 8, Code 2017, is amended
4 by striking the subsection.

5 Sec. 3. NEW SECTION. **901C.3 Simple misdemeanor and similar**
6 **local ordinance violations — expungement.**

7 1. Upon the expiration of two years following a person's
8 conviction of a simple misdemeanor or violation of any similar
9 local ordinance, the person may petition the court to expunge
10 the conviction, and if the person has had no other criminal
11 convictions, other than local traffic violations or simple
12 misdemeanor violations of chapter 321 during the two-year
13 period, the conviction shall be expunged as a matter of law.

14 2. The court shall enter an order that the record of the
15 conviction be expunged by the clerk of the district court.
16 Notwithstanding section 692.2, the clerk of the district court
17 shall send a receipt of notice to the department of public
18 safety that a record of conviction of a simple misdemeanor or a
19 violation of a similar local ordinance has been expunged, and
20 the record of conviction shall be removed from the criminal
21 history data files maintained by the department if such a
22 record was maintained in its criminal history data files.

23 3. An expunged conviction shall not be considered a prior
24 offense for purposes of enhancement unless the new violation
25 occurred prior to entry of the order of expungement.

26 **EXPLANATION**

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

29 This bill relates to the expungement of simple misdemeanors
30 and violations of similar local ordinances.

31 The bill strikes the expungement process under Code sections
32 123.46(6) and 123.47(8) that relate to simple misdemeanor
33 alcohol consumption offenses and local ordinances that arise
34 out of the same transaction or occurrence as the simple
35 misdemeanor and replaces such processes with the expungement

1 process under the bill.

2 The expungement process under the bill provides that upon
3 the expiration of two years following conviction of a simple
4 misdemeanor or conviction for a violation of a similar local
5 ordinance, a person may petition the court to expunge the
6 conviction if the person has no other criminal convictions,
7 other than local traffic violations or simple misdemeanor
8 violations of Code chapter 321 during the two-year period, and
9 the conviction shall be expunged as a matter of law. The bill
10 also provides that the clerk of the district court shall send
11 a receipt of notice to the department of public safety that a
12 record of conviction of a simple misdemeanor or a violation of
13 a similar local ordinance has been expunged, and the record
14 of conviction shall be removed from the criminal history
15 data files maintained by the department if such a record was
16 maintained in its criminal history data files.

17 The bill also provides that an expunged conviction shall
18 not be considered a prior offense for purposes of enhancement
19 unless the new violation occurred prior to entry of the order
20 of expungement.