

**Senate File 87 - Introduced**

SENATE FILE 87

BY BOLKCOM and WAHLS

**A BILL FOR**

1 An Act relating to the expungement of records of certain  
2 misdemeanor offenses, and including applicability  
3 provisions.

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

1 Section 1. Section 123.46, subsection 6, Code 2019, is  
2 amended to read as follows:

3 6. Upon the expiration of two years following conviction  
4 for a violation of **this section** ~~and a violation~~ or of a  
5 similar local ordinance ~~that arose from the same transaction~~  
6 ~~or occurrence~~, a person may petition the court to expunge the  
7 conviction ~~including the conviction for a violation of a local~~  
8 ~~ordinance that arose from the same transaction or occurrence~~,  
9 and if the person has had no other criminal convictions, other  
10 than local traffic violations or simple misdemeanor violations  
11 of **chapter 321** during the two-year period, the conviction ~~and~~  
12 ~~the conviction for a violation of a local ordinance that arose~~  
13 ~~from the same transaction or occurrence~~ shall be expunged as  
14 a matter of law. The court shall enter an order that the  
15 record of the conviction ~~and the conviction for a violation~~  
16 ~~of a local ordinance that arose from the same transaction or~~  
17 ~~occurrence~~ be expunged by the clerk of the district court.  
18 Notwithstanding **section 692.2**, after receipt of notice from the  
19 clerk of the district court that a record of conviction ~~and~~  
20 ~~the conviction for a violation of a local ordinance that arose~~  
21 ~~from the same transaction or occurrence~~ has been expunged,  
22 the record of conviction ~~and the conviction for a violation~~  
23 ~~of a local ordinance that arose from the same transaction or~~  
24 ~~occurrence~~ 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. NEW SECTION. **901C.3 Misdemeanor — expungement.**

28 1. Upon application of a defendant convicted of a  
29 misdemeanor offense in the county where the conviction  
30 occurred, the court shall enter an order expunging the record  
31 of such a criminal case, as a matter of law, if the defendant  
32 has established that more than eight years have passed since  
33 the date of the conviction, the defendant has no pending  
34 criminal charges, and all court costs, fees, fines, and  
35 restitution and other financial obligations ordered by the

1 court or assessed by the clerk of the district court have been  
2 paid.

3 2. Upon objection by the county attorney to the application,  
4 the court shall dismiss the defendant's application if any of  
5 the following apply:

6 a. A conviction under section 123.46.

7 b. A simple misdemeanor conviction under section 123.47,  
8 subsection 3, or similar local ordinance.

9 c. A conviction for dependent adult abuse under section  
10 235B.20.

11 d. A conviction under section 321.218, 321A.32, or 321J.21.

12 e. A conviction under section 321J.2.

13 f. A conviction for a sex offense as defined in section  
14 692A.101.

15 g. A conviction for involuntary manslaughter under section  
16 707.5.

17 h. A conviction for assault under section 708.2, subsection  
18 3.

19 i. A conviction under section 708.2A.

20 j. A conviction for harassment under section 708.7.

21 k. A conviction for stalking under section 708.11.

22 l. A conviction for removal of an officer's communication or  
23 control device under section 708.12.

24 m. A conviction for trespass under section 716.8, subsection  
25 3 or 4.

26 n. A conviction under chapter 717C.

27 o. A conviction under chapter 719.

28 p. A conviction under chapter 720.

29 q. A conviction under section 721.2.

30 r. A conviction under section 721.10.

31 s. A conviction under section 723.1.

32 t. A conviction under chapter 724.

33 u. A conviction under chapter 726.

34 v. A conviction under chapter 728.

35 w. A conviction under chapter 901A.

1     *x.* A conviction for a comparable offense listed in 49 C.F.R.  
2 §383.51(b) (table 1) or 49 C.F.R. §383.51(e) (table 4).

3     *y.* A conviction under prior law of an offense comparable to  
4 an offense enumerated in this subsection.

5     *z.* The defendant is the subject of a protective order or a  
6 no-contact order.

7     *aa.* The defendant has been subsequently convicted of or  
8 granted a deferred judgment for any criminal offense, other  
9 than a simple misdemeanor conviction under chapter 321 or of a  
10 similar local ordinance.

11     *ab.* The defendant has previously been granted two deferred  
12 judgments.

13     3. A person shall be granted an expungement of a record  
14 under this section one time in the person's lifetime.

15 However, the one application may request the expungement of  
16 records relating to more than one misdemeanor offense if  
17 the misdemeanor offenses arose from the same transaction or  
18 occurrence, and the application contains the misdemeanor  
19 offenses to be expunged.

20     4. The expunged record under this section is a confidential  
21 record exempt from public access under section 22.7 but shall  
22 be made available by the clerk of the district court upon court  
23 order.

24     5. Notwithstanding section 692.2, after receipt of  
25 notice from the clerk of the district court that a record of  
26 conviction has been expunged under subsection 1, the record  
27 of conviction shall be removed from the criminal history data  
28 files maintained by the department of public safety if such a  
29 record was maintained in the criminal history data files.

30     6. The supreme court may prescribe rules governing the  
31 procedures applicable to the expungement of a criminal case  
32 under this section.

33     7. This section applies to a misdemeanor conviction that  
34 occurred prior to, on, or after July 1, 2019.

35

EXPLANATION

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

3       This bill relates to the expungement of records of certain  
4 misdemeanor offenses.

5       The bill strikes a provision in Code section 123.46 relating  
6 to the expungement of a conviction for public intoxication  
7 allowing for the expungement of a local ordinance violation  
8 that arose out of the same transaction or occurrence of a  
9 conviction under Code section 123.46.

10      The bill provides that upon the application of a defendant  
11 convicted of a misdemeanor in the county where the defendant's  
12 conviction occurred, the court shall enter an order expunging  
13 the record of such criminal case, as a matter of law, if the  
14 defendant has established that more than eight years have  
15 passed since the date of the conviction, the defendant has no  
16 pending criminal charges, and all court costs, fees, fines,  
17 and restitution and other financial obligations ordered by the  
18 court or assessed by the clerk of the district court have been  
19 paid.

20      The bill provides that upon objection by the county attorney  
21 to the defendant's application, the court shall dismiss the  
22 application if any of the following misdemeanor offenses apply:  
23 simple misdemeanor convictions under Code sections 123.46  
24 (consumption or intoxication in public places) and 123.47(3)  
25 (alcohol consumption by persons under legal age) or similar  
26 local ordinances, because expungement procedures already exist  
27 for both offenses; convictions for dependent adult abuse  
28 under Code section 235B.20; convictions for operating a motor  
29 vehicle with an invalid driver's license under Code section  
30 321.218, 321A.32, or 321J.21; convictions for operating while  
31 intoxicated under Code section 321J.2; convictions for sex  
32 offenses as defined in Code section 692A.101; a conviction  
33 for involuntary manslaughter under Code section 707.5; a  
34 conviction for assault involving a dangerous weapon under Code  
35 section 708.2(3); convictions for domestic abuse assault under

1 Code section 708.2A; convictions for harassment under Code  
2 section 708.7; a conviction for stalking under Code section  
3 708.11; convictions for removal of an officer's communication  
4 or control device under Code section 708.12; convictions for  
5 trespass under Code section 716.8(3) or (4); convictions for  
6 bestiality under Code section 717C.1; convictions under Code  
7 chapter 719 (obstructing justice); convictions under Code  
8 chapter 720 (interference with judicial process); convictions  
9 under Code section 721.2 (nonfelonious conduct in office);  
10 convictions under Code section 721.10 (misuse of public records  
11 and files); convictions under Code section 723.1 (riot);  
12 convictions under Code chapter 724 (weapons); convictions under  
13 Code chapter 726 (protections of the family and dependent  
14 persons); convictions under Code chapter 728 (obscenity);  
15 convictions under Code chapter 901A (sexually predatory  
16 offenses); a conviction for a comparable offense listed in 49  
17 C.F.R. §383.51(b) (table 1) or 49 C.F.R. §383.51(e) (table 4)  
18 (commercial driver's licenses); and any conviction under prior  
19 law of an offense comparable to an offense enumerated in the  
20 bill. In addition, the bill does not apply to a defendant who  
21 is the subject of a protective order or a no-contact order; a  
22 defendant who has been subsequently convicted of or granted a  
23 deferred judgment for any criminal offense, other than a simple  
24 misdemeanor conviction under Code chapter 321 or of a similar  
25 local ordinance; or a defendant who has previously been granted  
26 two deferred judgments.

27 The bill prohibits a person from applying more than once  
28 for an expungement of the person's record. A person shall  
29 be granted an expungement of a record only one time in  
30 the person's lifetime. However, the one application may  
31 request the expungement of records relating to more than one  
32 misdemeanor offense if the misdemeanor offenses arose from the  
33 same transaction or occurrence, and the application contains  
34 the misdemeanor offenses to be expunged.

35 The bill provides that the expunged record under the bill

1 is a confidential record exempt from public access under Code  
2 section 22.7 but shall be made available by the clerk of the  
3 district court upon court order.

4 The bill also provides that after receipt of notice from the  
5 clerk of the district court that a record of conviction has  
6 been expunged, the record of conviction shall be removed from  
7 the criminal history data files maintained by the department of  
8 public safety if such a record was maintained in the criminal  
9 history data files.

10 The bill provides that the supreme court may prescribe rules  
11 governing expungement procedures applicable to criminal cases  
12 pursuant to the division.

13 The bill applies to misdemeanor convictions that occur prior  
14 to, on, or after July 1, 2019.