

**House File 223 - Introduced**

HOUSE FILE 223

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and KURTH

**A BILL FOR**

1 An Act relating to the expungement of certain nonviolent class  
2 "D" felonies.

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

1 Section 1. NEW SECTION. 901C.4 Nonviolent class "D" felony  
2 — expungement.

3 1. Upon application of a defendant convicted of a nonviolent  
4 class "D" felony offense filed in the county where the  
5 conviction occurred, the court shall enter an order expunging  
6 the record of such a criminal case if the defendant has proven  
7 all of the following:

8 a. More than ten years have passed since the discharge of  
9 the defendant's sentence.

10 b. All conditions of the defendant's parole or probation  
11 have been satisfied.

12 c. The defendant has paid all court costs, fees, fines,  
13 restitution, and any other financial obligations ordered by the  
14 court or assessed by the clerk of the district court.

15 d. The defendant has not previously been granted a deferred  
16 judgment for a prior felony.

17 e. The defendant has not been convicted of or received a  
18 deferred judgment for a felony offense committed subsequent to  
19 the conviction for which the defendant is seeking expungement.

20 f. The defendant has not been convicted of or received  
21 a deferred judgment for a misdemeanor offense of violence  
22 committed subsequent to the conviction for which the defendant  
23 is seeking expungement.

24 g. The defendant is not currently incarcerated or serving a  
25 period of probation for any criminal offense, and the defendant  
26 has no pending criminal charges.

27 h. The defendant is not required to register as a sex  
28 offender under chapter 692A.

29 2. The following class "D" felonies shall not be expunged:

30 a. A conviction for assault under section 708.2, subsection  
31 4.

32 b. A conviction of domestic abuse assault under section  
33 708.2A, subsection 4 or 5.

34 c. A conviction for assault in violation of individual  
35 rights under section 708.2C, subsection 2 or 4.

- 1     *d.* A conviction for assault while participating in a felony  
2 under section 708.3, subsection 2.
- 3     *e.* A conviction for an assault on persons engaged in certain  
4 occupations under section 708.3A, subsection 1 or 2.
- 5     *f.* A conviction for inmate assault under section 708.3B.
- 6     *g.* A conviction for willful injury under section 708.4,  
7 subsection 2.
- 8     *h.* A conviction for administering harmful substances under  
9 section 708.5.
- 10    *i.* A conviction for intimidation with a dangerous weapon  
11 under section 708.6, subsection 2.
- 12    *j.* A conviction for going armed with intent under section  
13 708.8.
- 14    *k.* A conviction for stalking under section 708.11,  
15 subsection 3, paragraph "b".
- 16    *l.* A conviction for removal of an officer's communication or  
17 control device under section 708.12, subsection 3, paragraph  
18 "f".
- 19    *m.* A conviction for disarming a peace officer of a dangerous  
20 weapon under section 708.13, subsection 2.
- 21    *n.* A conviction for female genital mutilation under section  
22 708.16, subsection 1 or 4.
- 23    *o.* A conviction for threat of terrorism under section  
24 708A.5.
- 25    *p.* A conviction for lascivious acts with a child under  
26 section 709.8, subsection 1, paragraph "d" or "e".
- 27    *q.* A conviction for assault with intent to commit sexual  
28 abuse under section 709.11, subsection 2.
- 29    *r.* A conviction for sexual exploitation by a counselor,  
30 therapist, or school employee under section 709.15, subsection  
31 4, paragraph "a", or under section 709.15, subsection 5,  
32 paragraph "a".
- 33    *s.* A conviction for human trafficking under section 710A.2.
- 34    *t.* A conviction for aggravated theft under section 711.3B,  
35 subsection 2, paragraph "b".

1     u. A conviction for threats to place or attempts to place  
2 any incendiary or explosive device or destructive substance  
3 under section 712.8.

4     v. A conviction under prior law of an offense comparable to  
5 an offense listed in this subsection.

6     3. The county attorney for the county in which the  
7 conviction was entered shall be given notice of the  
8 application, and an order of expungement shall not be entered  
9 until the state has been given notice and the opportunity to  
10 object on the grounds that the applicant does not satisfy all  
11 of the conditions in subsection 1.

12    4. A person shall be granted an expungement of a record  
13 under this section one time in the person's lifetime. However,  
14 the one application may request the expungement of records  
15 relating to more than one nonviolent class "D" felony offense  
16 if the nonviolent class "D" felony offenses arose from the same  
17 transaction or occurrence, and the application contains the  
18 nonviolent class "D" felony offenses to be expunged.

19    5. No order of expungement shall be entered until at least  
20 thirty days after an application has been filed.

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

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

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

34    9. This section applies to a nonviolent class "D" felony  
35 conviction that occurred prior to, on, or after July 1, 2021.

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EXPLANATION

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

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4 This bill relates to the expungement of certain nonviolent  
5 class "D" felonies.

6 The bill provides that upon application of a defendant  
7 convicted of a nonviolent class "D" felony offense filed in the  
8 county where the conviction occurred, the court shall enter  
9 an order expunging the record of such a criminal case if the  
10 defendant has proven all of the following: more than 10 years  
11 have passed since the discharge of the defendant's sentence;  
12 all conditions of the defendant's parole or probation have been  
13 satisfied; all court costs, fees, fines, restitution, and any  
14 other financial obligations have been paid; the defendant has  
15 not previously been granted a deferred judgment for a prior  
16 felony; the defendant has not been convicted of or received a  
17 deferred judgment for a felony offense committed subsequent to  
18 the conviction for which the defendant is seeking expungement;  
19 the defendant has not been convicted of or received a deferred  
20 judgment for a misdemeanor offense of violence committed  
21 subsequent to the conviction for which the defendant is seeking  
22 expungement; the defendant is not currently incarcerated or  
23 serving a period of probation for any criminal offense and has  
24 no pending criminal charges; and the defendant is not required  
25 to register as a sex offender under Code chapter 692A.

26 The bill provides that a conviction of the following class  
27 "D" felonies are not eligible for expungement: assault under  
28 Code section 708.2(4); domestic abuse assault under Code  
29 section 708.2A(4) or (5); assault in violation of individual  
30 rights under Code section 708.2C(2) or (4); assault while  
31 participating in a felony under Code section 708.3(2); assault  
32 on persons engaged in certain occupations under Code section  
33 708.3A(1) or (2); inmate assault under Code section 708.3B;  
34 willful injury under Code section 708.4(2); administering  
35 harmful substances under Code section 708.5; intimidation with

1 a dangerous weapon under Code section 708.6(2); going armed  
2 with intent under Code section 708.8; stalking under Code  
3 section 708.11(3)(b); removal of an officer's communication  
4 or control device under Code section 708.12(3)(f); disarming  
5 a peace officer of a dangerous weapon under Code section  
6 708.13(2); female genital mutilation under Code section  
7 708.16(1) or (4); threat of terrorism under Code section  
8 708A.5; lascivious acts with a child under Code section  
9 709.8(1)(a) or (e); assault with intent to commit sexual  
10 abuse under Code section 709.11(2); sexual exploitation by a  
11 counselor, therapist, or school employee under Code section  
12 709.15(4) or (5); human trafficking under Code section 710A.2;  
13 aggravated theft under Code section 711.3B(2); and certain  
14 threats under Code section 712.8.

15 The bill provides that the county attorney for the county in  
16 which the conviction was entered shall be given notice of the  
17 application, and an order of expungement shall not be entered  
18 until the state has been given notice and the opportunity to  
19 object on the grounds that the applicant does not satisfy  
20 all of the conditions specified in the bill, and no order of  
21 expungement shall be entered until at least 30 days after the  
22 application has been filed.

23 The bill provides that a person can be granted an expungement  
24 of a record under the bill one time in the person's lifetime.  
25 However, the one application may request the expungement of  
26 records relating to more than one nonviolent class "D" felony  
27 offense if the nonviolent class "D" felony offenses arose  
28 from the same transaction or occurrence, and the application  
29 contains the nonviolent class "D" felony offenses to be  
30 expunged.

31 The bill provides that the expunged record is a confidential  
32 record exempt from public but shall be made available by the  
33 clerk of the district court upon court order. After receipt  
34 of notice from the clerk of the district court that a record of  
35 conviction has been expunged, the record of conviction shall be

1 removed from the criminal history data files maintained by the  
2 department of public safety if such a record was maintained in  
3 the criminal history data files.

4 The bill provides that the supreme court may prescribe rules  
5 governing the procedures applicable to the expungement of a  
6 criminal case under this Code section. The bill applies to a  
7 nonviolent class "D" felony conviction that occurred prior to,  
8 on, or after July 1, 2021.