HOUSE FILE 831
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 223)

(As Amended and Passed by the House March 25, 2021)

[ = New Language by the House

* = Language Stricken by the House

## A BILL FOR

An Act relating to the expungement of convictions for certain class "D" felonies, and related convictions, and to the definition of a conviction relating to the possession, receipt, and transportation of firearms, offensive weapons, and ammunition.

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

Section 1. Section 724.25, Code 2021, is amended to read as follows:

**724.25 Felony, conviction, and antique firearm defined.**

1. As used in section 724.26, the word "*felony*" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year, but does not include any offense, other than an offense involving a firearm or explosive, classified as a misdemeanor under the laws of the state and punishable by a term of imprisonment of two years or less.

[2. As used in section 724.26, "*conviction*" does not include a deferred judgment that has been expunged pursuant to section 907.3, subsection 1, paragraph "*c*", or any conviction that has been expunged or for which a person has been pardoned or has had the person's rights restored in accordance with section 724.27 unless such expungement, pardon, or restoration expressly provides that the person shall not ship, transport, possess, or receive firearms, offensive weapons, or ammunition.]

~~2.~~ 3. As used in this chapter, an "*antique firearm*" means any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898. An antique firearm also means a replica of a firearm so described if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition or if the replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Sec. 2. NEW SECTION. **901C.4 [Class] "D" felony — expungement.**

[1. Upon application of a defendant convicted of a class "D" felony offense listed in subsection 2, or convicted under prior law of an offense comparable to a class "D" felony listed in subsection 2, the court shall enter an order expunging the conviction if the defendant has proven all of the following:

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

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

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

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

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

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

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

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

2. A conviction for the following class "D" felonies shall be expunged if all of the conditions specified in subsection 1 are satisfied:

*a.* A conviction for violations involving excursion gambling boats and gambling structures under section 99F.15, subsection 4.

*b.* A conviction for unlawful betting where the potential winnings from the bet exceed one thousand dollars in value under section 99F.15, subsection 6, paragraph "*b*".

*c.* A conviction for forgery or fraud related to lottery tickets, lottery equipment or materials, or lottery activities under section 99G.36.

*d.* A conviction for the manufacture, delivery, or possession with the intent to manufacture or deliver fifty kilograms or

less of marijuana or involving flunitrazepam under section 124.401, subsection 1, paragraph "*d*".

*e.* A conviction for possession with the intent to manufacture a controlled substance under section 124.401, subsection 4.

*f.* A conviction for knowingly or intentionally possessing a controlled substance under section 124.401, subsection 5, unnumbered paragraph 1, when the person has previously been convicted two or more times of violating chapter 124, 124B, or 453B, or chapter 124A as it existed prior to July 1, 2017.

*g.* A conviction for gatherings where controlled substances are unlawfully used under section 124.407, subsection 2.

*h.* A conviction for a third or subsequent offense of operating while under the influence of alcohol or a drug or while having an alcohol concentration of .08 or more under section 321J.2, subsection 2, paragraph "*c*".

*i.* A conviction for a violation involving a taxable substances tax stamp, label, or official insignia under section 453B.12, subsection 2, 3, or 4.

*j.* A conviction for a conspiracy to commit a felony other than a forcible felony under section 706.3, subsection 2.

*k.* A conviction for violating a custodial order under section 710.6, subsection 1.

*l.* A conviction for burglary in the third degree under section 713.6A, subsection 1.

*m.* A conviction for theft in the second degree under section 714.2, subsection 2.

*n.* A conviction for fraudulent practices in the second degree under section 714.10.

*o.* A conviction for intellectual property counterfeiting in the second degree under section 714.26, subsection 2, paragraph "*b*".

*p.* A conviction for a computer and spyware offense causing pecuniary losses exceeding one thousand dollars under section 715.7, subsection 2.

*q.* A conviction for forgery under section 715A.2, subsection 2, paragraph "*a*".

*r.* A conviction for criminal mischief in the second degree under section 716.4.

*s.* A conviction for trespass under section 716.7, subsection 2, paragraph "*a*", subparagraph (6).

*t.* A conviction for a second or subsequent violation of food operation trespass under section 716.8, subsection 8, paragraph "*b*".

*u.* A conviction for railroad vandalism in the fourth degree under section 716.10, subsection 2, paragraph "*d*".

*v.* A conviction for a third offense of illegal gaming in the fourth degree under section 725.7, subsection 2, paragraph "*a*", subparagraph (3).

*w.* A conviction for a second offense of illegal gaming in the third degree under section 725.7, subsection 2, paragraph "*b*", subparagraph (2).

*x.* A conviction for a first offense of illegal gaming in the second degree under section 725.7, subsection 2, paragraph "*c*", subparagraph (1).

3. The application shall be filed in the criminal court case in which the conviction being sought to be expunged was entered.]

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

*[5. A person shall be granted an expungement of a conviction under this section one time in the person's lifetime. However, the one application may request the expungement of more than one conviction if the convictions were entered in the same court file and arose from the same transaction or occurrence and the convictions are for criminal offenses that are

eligible to be expunged under either this section or section 901C.3. The expungement of a misdemeanor conviction under this subsection shall not be considered an expungement under section 901C.3 for purposes of section 901C.3, subsection 3.]

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

* 7. The[court record of the expunged conviction]is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court upon court order.

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

9. The supreme court may prescribe rules governing the procedures applicable to the expungement of a criminal *[conviction]under this section.

*[10. This section applies to a class "D" felony conviction entered prior to, on, or after July 1, 2021.]