

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4714

(SENATE AUTHORS: CHAMPION)

DATE	D-PG	OFFICIAL STATUS
03/07/2024	12050	Introduction and first reading Referred to Judiciary and Public Safety

1.1A bill for an act

1.2relating to public safety; excluding reckless driving resulting in great bodily harm

1.3or death from the list of offenses eligible for automatic expungement; reducing

1.4the waiting period before a person can petition for expungement from five years

1.5to four in certain cases involving a stay of imposition; clarifying that certain offering

1.6forged check offenses are eligible for expungement; amending Minnesota Statutes

1.72023 Supplement, sections 609A.015, subdivision 3; 609A.02, subdivision 3.

1.8BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9Section 1. Minnesota Statutes 2023 Supplement, section 609A.015, subdivision 3, is

1.10amended to read:

1.11Subd. 3. **Eligibility; certain criminal proceedings.** (a) A person is eligible for a grant

1.12of expungement relief if the person:

1.13(1) was convicted of a qualifying offense;

1.14(2) has not been convicted of a new offense, other than an offense that would be a petty

1.15misdemeanor, in Minnesota:

1.16(i) during the applicable waiting period immediately following discharge of the disposition

1.17or sentence for the crime; or

1.18(ii) during the applicable waiting period immediately preceding a subsequent review

1.19performed pursuant to subdivision 5, paragraph (a); and

1.20(3) is not charged with an offense, other than an offense that would be a petty

1.21misdemeanor, in Minnesota at the time the person reaches the end of the applicable waiting

1.22period or at the time of a subsequent review.

1.23(b) As used in this subdivision, "qualifying offense" means a conviction for:

- 2.1 (1) any petty misdemeanor offense other than a violation of a traffic regulation relating
2.2 to the operation or parking of motor vehicles;
- 2.3 (2) any misdemeanor offense other than:
- 2.4 (i) section 169A.20 under the terms described in section 169A.27 (fourth-degree driving
2.5 while impaired);
- 2.6 (ii) section 518B.01, subdivision 14 (violation of an order for protection);
- 2.7 (iii) section 609.224 (assault in the fifth degree);
- 2.8 (iv) section 609.2242 (domestic assault);
- 2.9 (v) section 609.746 (interference with privacy);
- 2.10 (vi) section 609.748 (violation of a harassment restraining order);
- 2.11 (vii) section 609.78 (interference with emergency call);
- 2.12 (viii) section 609.79 (obscene or harassing phone calls);
- 2.13 (ix) section 617.23 (indecent exposure); or
- 2.14 (x) section 629.75 (violation of domestic abuse no contact order);
- 2.15 (3) any gross misdemeanor offense other than:
- 2.16 (i) section 169.13, subdivision 1, if the person causes great bodily harm or death to
2.17 another (reckless driving resulting in great bodily harm or death);
- 2.18 ~~(i)~~ (ii) section 169A.25 (second-degree driving while impaired);
- 2.19 ~~(ii)~~ (iii) section 169A.26 (third-degree driving while impaired);
- 2.20 ~~(iii)~~ (iv) section 518B.01, subdivision 14 (violation of an order for protection);
- 2.21 ~~(iv)~~ (v) section 609.2113, subdivision 3 (criminal vehicular operation);
- 2.22 ~~(v)~~ (vi) section 609.2231 (assault in the fourth degree);
- 2.23 ~~(vi)~~ (vii) section 609.224 (assault in the fifth degree);
- 2.24 ~~(vii)~~ (viii) section 609.2242 (domestic assault);
- 2.25 ~~(viii)~~ (ix) section 609.233 (criminal neglect);
- 2.26 ~~(ix)~~ (x) section 609.3451 (criminal sexual conduct in the fifth degree);
- 2.27 ~~(x)~~ (xi) section 609.377 (malicious punishment of child);
- 2.28 ~~(xi)~~ (xii) section 609.485 (escape from custody);

- 3.1 ~~(xii)~~ (xiii) section 609.498 (tampering with witness);
- 3.2 ~~(xiii)~~ (xiv) section 609.582, subdivision 4 (burglary in the fourth degree);
- 3.3 ~~(xiv)~~ (xv) section 609.746 (interference with privacy);
- 3.4 ~~(xv)~~ (xvi) section 609.748 (violation of a harassment restraining order);
- 3.5 ~~(xvi)~~ (xvii) section 609.749 (harassment; stalking);
- 3.6 ~~(xvii)~~ (xviii) section 609.78 (interference with emergency call);
- 3.7 ~~(xviii)~~ (xix) section 617.23 (indecent exposure);
- 3.8 ~~(xix)~~ (xx) section 617.261 (nonconsensual dissemination of private sexual images); or
- 3.9 ~~(xx)~~ (xxi) section 629.75 (violation of domestic abuse no contact order); or
- 3.10 (4) any felony offense listed in section 609A.02, subdivision 3, paragraph (b), other
- 3.11 than:
- 3.12 (i) section 152.023, subdivision 2 (possession of a controlled substance in the third
- 3.13 degree);
- 3.14 (ii) 152.024, subdivision 2 (possession of a controlled substance in the fourth degree);
- 3.15 (iii) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil
- 3.16 commitment for mental illness); ~~or~~
- 3.17 (iv) section 609.582, subdivision 3, paragraph (a) (burglary in the third degree; other
- 3.18 than trespass); or
- 3.19 (v) section 609.746, subdivision 1, paragraph (e) (interference with privacy; subsequent
- 3.20 violation or minor victim).
- 3.21 (c) As used in this subdivision, "applicable waiting period" means:
- 3.22 (1) if the offense was a petty misdemeanor, two years since discharge of the sentence;
- 3.23 (2) if the offense was a misdemeanor, two years since discharge of the sentence for the
- 3.24 crime;
- 3.25 (3) if the offense was a gross misdemeanor, three years since discharge of the sentence
- 3.26 for the crime;
- 3.27 (4) if the offense was a felony violation of section 152.025, four years since the discharge
- 3.28 of the sentence for the crime; and

(5) if the offense was any other felony, five years since discharge of the sentence for the crime.

(d) Felony offenses deemed to be a gross misdemeanor or misdemeanor pursuant to section 609.13, subdivision 1, remain ineligible for expungement under this section. Gross misdemeanor offenses ineligible for a grant of expungement under this section remain ineligible if deemed to be for a misdemeanor pursuant to section 609.13, subdivision 2.

(e) The service requirements in section 609A.03, subdivision 8, do not apply to any expungements ordered under this subdivision.

(f) An expungement order does not apply to records held by the commissioners of health and human services.

Sec. 2. Minnesota Statutes 2023 Supplement, section 609A.02, subdivision 3, is amended to read:

Subd. 3. **Certain criminal proceedings.** (a) A petition may be filed under section 609A.03 to seal all records relating to an arrest, indictment or information, trial, or verdict if the records are not subject to section 299C.11, subdivision 1, paragraph (b), and if:

(1) all pending actions or proceedings were resolved in favor of the petitioner. For purposes of this chapter, a verdict of not guilty by reason of mental illness is not a resolution in favor of the petitioner. For the purposes of this chapter, an action or proceeding is resolved in favor of the petitioner, if the petitioner received an order under section 590.11 determining that the petitioner is eligible for compensation based on exoneration;

(2) the petitioner has successfully completed the terms of a diversion program or stay of adjudication and has not been charged with a new crime for at least one year since completion of the diversion program or stay of adjudication;

(3) the petitioner was convicted of a petty misdemeanor or misdemeanor or the sentence imposed was within the limits provided by law for a misdemeanor and the petitioner has not been convicted of a new crime for at least two years since discharge of the sentence for the crime;

(4) the petitioner was convicted of a gross misdemeanor or the sentence imposed was within the limits provided by law for a gross misdemeanor and the petitioner has not been convicted of a new crime for at least three years since discharge of the sentence for the crime;

(5) the petitioner was convicted of a gross misdemeanor that is deemed to be for a misdemeanor pursuant to section 609.13, subdivision 2, clause (2), and has not been convicted of a new crime for at least three years since discharge of the sentence for the crime;

(6) the petitioner was convicted of a felony violation of section 152.025 and has not been convicted of a new crime for at least four years since discharge of the sentence for the crime;

(7) the petitioner was convicted of a felony that is deemed to be for a gross misdemeanor or misdemeanor pursuant to section 609.13, subdivision 1, clause (2), and has not been convicted of a new crime for at least:

(i) four years since discharge of the sentence for the crime if the conviction was for an offense listed in paragraph (b); or

(ii) five years since discharge of the sentence for the crime if the conviction was for any other offense; or

(8) the petitioner was convicted of a felony violation of an offense listed in paragraph (b), and has not been convicted of a new crime for at least four years since discharge of the sentence for the crime.

(b) Paragraph (a), clause (7), applies to the following offenses:

(1) section 35.824 (altering livestock certificate);

(2) section 62A.41 (insurance regulations);

(3) section 86B.865, subdivision 1 (certification for title on watercraft);

(4) section 152.023, subdivision 2 (possession of a controlled substance in the third degree); 152.024, subdivision 2 (possession of a controlled substance in the fourth degree); 152.025 (controlled substance in the fifth degree); or 152.097 (sale of simulated controlled substance);

(5) section 168A.30, subdivision 1 (certificate of title false information); or 169.09, subdivision 14, paragraph (a), clause (2) (accident resulting in great bodily harm);

(6) chapter 201; 203B; or 204C (voting violations);

(7) section 228.45; 228.47; 228.49; 228.50; or 228.51 (false bill of lading);

(8) section 256.984 (false declaration in assistance application);

(9) section 296A.23, subdivision 2 (willful evasion of fuel tax);

(10) section 297D.09, subdivision 1 (failure to affix stamp on scheduled substances);

- 6.1 (11) section 297G.19 (liquor taxation); or 340A.701 (unlawful acts involving liquor);
- 6.2 (12) section 325F.743 (precious metal dealers); or 325F.755, subdivision 7 (prize notices
6.3 and solicitations);
- 6.4 (13) section 346.155, subdivision 10 (failure to control regulated animal);
- 6.5 (14) section 349.2127; or 349.22 (gambling regulations);
- 6.6 (15) section 588.20 (contempt);
- 6.7 (16) section 609.27, subdivision 1, clauses (2) to (5) (coercion);
- 6.8 (17) section 609.31 (leaving state to evade establishment of paternity);
- 6.9 (18) section 609.485, subdivision 4, paragraph (a), clause (2) or (4) (escape from civil
6.10 commitment for mental illness);
- 6.11 (19) section 609.49 (failure to appear in court);
- 6.12 (20) section 609.52, subdivision 2, when sentenced pursuant to section 609.52,
6.13 subdivision 3, clause (3)(a) (theft of \$5,000 or less) or 609.52, subdivision 3a, clause (1)
6.14 (theft of \$1,000 or less with risk of bodily harm); or any other offense sentenced pursuant
6.15 to section 609.52, subdivision 3, clause (3)(a);
- 6.16 (21) section 609.521 (possession of shoplifting gear);
- 6.17 (22) section 609.525 (bringing stolen goods into state);
- 6.18 (23) section 609.526, subdivision 2, clause (2) (metal dealer receiving stolen goods);
- 6.19 (24) section 609.527, subdivision 5b (possession or use of scanning device or reencoder);
6.20 609.528, subdivision 3, clause (3) (possession or sale of stolen or counterfeit check); or
6.21 609.529 (mail theft);
- 6.22 (25) section 609.53 (receiving stolen goods);
- 6.23 (26) section 609.535, subdivision 2a, paragraph (a), clause (1) (dishonored check over
6.24 \$500);
- 6.25 (27) section 609.54, clause (1) (embezzlement of public funds \$2,500 or less);
- 6.26 (28) section 609.551 (rustling and livestock theft);
- 6.27 (29) section 609.5641, subdivision 1a, paragraph (a) (wildfire arson);
- 6.28 (30) section 609.576, subdivision 1, clause (3), item (iii) (negligent fires);
- 6.29 (31) section 609.582, subdivision 3 (burglary in the third degree);

- 7.1 (32) section 609.59 (possession of burglary or theft tools);
- 7.2 (33) section 609.595, subdivision 1, clauses (3) to (5), and subdivision 1a, paragraph
- 7.3 (a) (criminal damage to property);
- 7.4 (34) section 609.597, subdivision 3, clause (3) (assaulting or harming police horse);
- 7.5 (35) section 609.625 (aggravated forgery); 609.63 (forgery); 609.631, subdivision 4,
- 7.6 clause (3)(a) (check forgery and offering forged check, \$2,500 or less); 609.635 (obtaining
- 7.7 signature by false pretense); 609.64 (recording, filing forged instrument); or 609.645
- 7.8 (fraudulent statements);
- 7.9 (36) section 609.65, clause (1) (false certification by notary); or 609.651, subdivision
- 7.10 4, paragraph (a) (lottery fraud);
- 7.11 (37) section 609.652 (fraudulent driver's license and identification card);
- 7.12 (38) section 609.66, subdivision 1a, paragraph (a) (discharge of firearm; silencer); or
- 7.13 609.66, subdivision 1b (furnishing firearm to minor);
- 7.14 (39) section 609.662, subdivision 2, paragraph (b) (duty to render aid);
- 7.15 (40) section 609.686, subdivision 2 (tampering with fire alarm);
- 7.16 (41) section 609.746, subdivision 1, paragraph (g) (interference with privacy; subsequent
- 7.17 violation or minor victim);
- 7.18 (42) section 609.80, subdivision 2 (interference with cable communications system);
- 7.19 (43) section 609.821, subdivision 2 (financial transaction card fraud);
- 7.20 (44) section 609.822 (residential mortgage fraud);
- 7.21 (45) section 609.825, subdivision 2 (bribery of participant or official in contest);
- 7.22 (46) section 609.855, subdivision 2, paragraph (c), clause (1) (interference with transit
- 7.23 operator);
- 7.24 (47) section 609.88 (computer damage); or 609.89 (computer theft);
- 7.25 (48) section 609.893, subdivision 2 (telecommunications and information services fraud);
- 7.26 (49) section 609.894, subdivision 3 or 4 (cellular counterfeiting);
- 7.27 (50) section 609.895, subdivision 3, paragraph (a) or (b) (counterfeited intellectual
- 7.28 property);
- 7.29 (51) section 609.896 (movie pirating);

- 8.1 (52) section 624.7132, subdivision 15, paragraph (b) (transfer pistol to minor); 624.714,
- 8.2 subdivision 1a (pistol without permit; subsequent violation); or 624.7141, subdivision 2
- 8.3 (transfer of pistol to ineligible person); or
- 8.4 (53) section 624.7181 (rifle or shotgun in public by minor).