

Updates to the Minnesota Clean Slate Act

HF4641 (Long) / SF4714 (Champion)

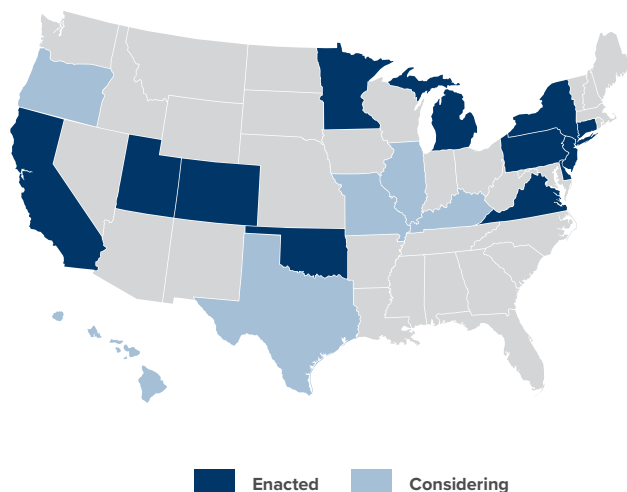
The Minnesota Clean Slate Act of 2023 was enacted into law and will automate expungements for offenses that already qualify for expungements under the current petition process. The legislation, authored by Rep. Jamie Long and Sen. Bobby Joe Champion, also expands the list of qualifying offenses eligible for the state's petition-based expungement. The Clean Slate Act is effective January 1, 2025.

HF4641 (Long)/SF4714 (Champion) updates the Minnesota Clean Slate Act to include the following after feedback from prosecutors and practitioners:

- Clarifies the offense of reckless driving resulting in great bodily harm or death will be ineligible for automatic expungement;
- Excludes burglary in the third degree other than trespass as eligible for automatic expungement;
- Makes clear that the waiting period before a person can petition for expungement is four years for certain cases involving a stay of imposition; and
- Clarifies that certain offenses related to offering a forged check will be eligible for expungement.

In addition, HF3614 (Moller), includes a provision making a technical correction to the Clean Slate Act related to a drafting error.

Twelve states have enacted automatic expungement and several states are considering legislation.



SUPPORTERS:



Background on the Minnesota Clean Slate Act:

Criteria for qualifying for automatic expungement:

1. Person was arrested and all charges were dismissed after a case was filed unless dismissal was based on a finding that the defendant was incompetent to proceed; or
2. All pending actions or proceedings were resolved in favor of the person; or
3. Person successfully completed the terms of a diversion program or stay of adjudication and has not been charged with another offense, other than an offense that would be a petty misdemeanor, for one year immediately following completion of the diversion program or stay of adjudication; or
4. Person was adjudicated delinquent for, convicted of, or received a stayed sentence for a qualifying offense; and
 - a. Person has not been convicted of a new offense, other than a petty misdemeanor, in Minnesota during the applicable waiting period; and
 - b. Person is not charged with a new offense in Minnesota at the time the person reaches the end of the applicable waiting period.

Employer & Public Safety Protections:

- Current law under Minnesota Statute 181.981 offers significant protection to an employer from an individual or entity asserting a claim of negligent hiring based solely on an offense that was expunged.
- Courts, prosecutors, and law enforcement agencies still have access to expunged record data.
- Expunged record of conviction will be disclosed for the purposes of a background study by DHS and other licensing boards and agencies if required.
- Bureau of Criminal Apprehension (BCA) responsible for maintaining records and processing automatic expungements.
- BCA required to notify each arresting and citing law enforcement agency that expungement relief was granted.
- Prosecuting attorney shall notify victims under the manner provided in 611A.03, subd. 1 and 2.
- In any subsequent prosecution of a person granted expungement relief, the expunged criminal record has the same effect as if the relief was not granted.

Changes to Petition-based Expungements:

Adds 5th degree drug possessions and convictions deemed to be misdemeanors or gross misdemeanors due to a stay of imposition.

Qualifying offenses for automatic expungement:

Petty Misdemeanor Offenses

Excluding traffic regulation relating to the operation or parking of motor vehicles.

Waiting period: 2 years after discharge of sentence

Misdemeanor Offenses

Excluding any of the following:

- Fourth degree driving while impaired
- Violation of an order for protection
- Fifth degree assault
- Domestic assault
- Violation of a harassment restraining order
- Interference with emergency call
- Obscene or harassing phone calls
- Indecent exposure
- Interference with privacy
- Violation of domestic abuse no contact order

Waiting period: 2 years after discharge of sentence

Gross Misdemeanor Offenses

Excluding any of the following:

- Second degree driving while impaired
- Third degree driving while impaired
- Violation of an order for protection
- Fourth degree or fifth degree assault
- Domestic assault
- Criminal neglect
- Fifth degree criminal sexual conduct
- Malicious punishment of a child
- Escape from custody
- Tampering with witness
- Fourth degree burglary
- Interference with privacy
- Violation of a harassment restraining order
- Harassment or stalking
- Interference with emergency call
- Indecent exposure
- Nonconsensual dissemination of private sexual images
- Violation of domestic abuse no-contact order

Waiting period: 3 years after discharge of sentence

Felony Offenses moved from Petition to Automatic Expungement

Any felony offense currently listed as eligible for expungement by petition in section 609A.02, subdivision 3, paragraph (b) will be automatically expunged.

Waiting period: 5 years after discharge of sentence