

1.1 Senator moves to amend S.F. No. 204 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2024, section 609A.06, subdivision 3, is amended to read:

1.4 Subd. 3. **Eligibility; cannabis offense.** (a) A person is eligible for an expungement or
1.5 resentencing to a lesser offense if:

1.6 (1) the person was convicted of, or adjudication was stayed for, a violation of ~~any of the~~
1.7 following a first-, second-, third-, fourth-, or fifth-degree controlled substance crime involving
1.8 the sale or possession of marijuana or tetrahydrocannabinols:

1.9 ~~(i) section 152.021, subdivision 1, clause (6);~~

1.10 ~~(ii) section 152.021, subdivision 2, clause (6);~~

1.11 ~~(iii) section 152.022, subdivision 1, clause (5), or clause (7), item (iii);~~

1.12 ~~(iv) section 152.022, subdivision 2, clause (6);~~

1.13 ~~(v) section 152.023, subdivision 1, clause (5);~~

1.14 ~~(vi) section 152.023, subdivision 2, clause (5);~~

1.15 ~~(vii) section 152.024, subdivision (4); or~~

1.16 ~~(viii) section 152.025, subdivision 2, clause (1)~~ under Minnesota Statutes 2023

1.17 Supplement, sections 152.021, 152.022, 152.023, 152.024, or 152.025, or a previous version
1.18 of those or any other statutes criminalizing the possession, sale, transportation, or cultivation
1.19 of marijuana or tetrahydrocannabinols;

1.20 (2) the offense did not involve a dangerous weapon, the intentional infliction of bodily
1.21 harm on another, an attempt to inflict bodily harm on another, or an act committed with the
1.22 intent to cause fear in another of immediate bodily harm or death;

1.23 (3) the act on which the charge was based would either be a lesser offense or no longer
1.24 be a crime after August 1, 2023; and

1.25 (4) the person did not appeal the conviction, any appeal was denied, or the deadline to
1.26 file an appeal has expired.

1.27 (b) A person is eligible for an expungement for any other offense charged along with
1.28 the underlying crime described in paragraph (a) if the charge was either dismissed or eligible
1.29 for expungement under section 609A.055.

(c) For purposes of this subdivision, a "lesser offense" means a nonfelony offense if the person was charged with a felony.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2024, section 609A.06, subdivision 7, is amended to read:

Subd. 7. Review and determination. (a) The Cannabis Expungement Board shall review all available records to determine whether the conviction or stay of adjudication or charge is eligible for an expungement or resentencing to a lesser offense. An expungement under this section is presumed to be in the public interest unless there is clear and convincing evidence that an expungement or resentencing to a lesser offense would create a risk to public safety.

(b) If the Cannabis Expungement Board determines that an expungement is in the public interest, the board shall determine whether a person's conviction should be vacated and charges should be dismissed.

(c) If the Cannabis Expungement Board determines that an expungement is in the public interest, the board shall determine whether the limitations under section 609A.03, subdivision 5a, apply.

(d) If the Cannabis Expungement Board determines that an expungement is in the public interest, the board shall determine whether the limitations under section 609A.03, subdivision 7a, paragraph (b), clause (5), apply.

(e) If the Cannabis Expungement Board determines that an expungement is not in the public interest, the board shall determine whether the person is eligible for resentencing to a lesser offense.

(f) In making a determination under this subdivision, the Cannabis Expungement Board shall consider:

(1) the nature and severity of the underlying crime, including but not limited to the total amount of marijuana or tetrahydrocannabinols possessed by the person and whether the offense involved a dangerous weapon, the intentional infliction of bodily harm on another, an attempt to inflict bodily harm on another, or an act committed with the intent to cause fear in another of immediate bodily harm or death;

(2) whether an expungement or resentencing the person a lesser offense would increase the risk, if any, the person poses to other individuals or society;

(3) if the person is under sentence, whether an expungement or resentencing to a lesser offense would result in the release of the person and whether release earlier than the date that the person would be released under the sentence currently being served would present a danger to the public or would be compatible with the welfare of society;

(4) aggravating or mitigating factors relating to the underlying crime, including the person's level of participation and the context and circumstances of the underlying crime;

(5) statements from victims and law enforcement, if any;

(6) if an expungement or resentencing the person to a lesser offense is considered, whether there is good cause to restore the person's right to possess firearms and ammunition;

(7) if an expungement is considered, whether an expunged record of a conviction or stay of adjudication may be opened for purposes of a background check required under section 122A.18, subdivision 8; and

(8) whether the person was also charged with other offenses in addition to the underlying crime, the disposition of those other charges, and other factors deemed relevant by the Cannabis Expungement Board.

(g) In making a determination under this subdivision, the Cannabis Expungement Board shall not consider the impact the expungement would have on the offender based on any records held by the Department of Health; Department of Children, Youth, and Families; or Department of Human Services.

(h) The affirmative vote of three members is required for action taken at any meeting.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2024, section 609A.06, subdivision 10, is amended to read:

Subd. 10. **Notice to judicial branch and offenders.** (a) The Cannabis Expungement Board shall identify any conviction or stay of adjudication or charge that qualifies for an order of expungement or resentencing to a lesser offense and notify the judicial branch of:

(1) the name and date of birth of a person whose conviction or stay of adjudication is eligible for an order of expungement or resentencing to a lesser offense;

(2) the court file number of the eligible conviction or stay of adjudication;

(3) whether the person is eligible for an expungement;

(4) if the person is eligible for an expungement, whether the person's conviction should be vacated and charges should be dismissed;

(5) if the person is eligible for an expungement, whether there is good cause to restore the offender's right to possess firearms and ammunition;

(6) if the person is eligible for an expungement, whether the limitations under section 609A.03, subdivision 7a, paragraph (b), clause (5), apply; ~~and~~

(7) if the person is eligible for an expungement, whether the expungement should also apply to any other offenses charged in addition to the underlying crime; and

(8) if the person is eligible for resentencing to a lesser offense, the lesser sentence to be imposed.

(b) The Cannabis Expungement Board shall make a reasonable and good faith effort to notify any person whose conviction or stay of adjudication qualifies for an order of expungement that the offense qualifies and notice is being sent to the judicial branch. Notice sent pursuant to this paragraph shall inform the person that, following the order of expungement, any records of an arrest, conviction, or incarceration should not appear on any background check or study.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2024, section 609A.06, subdivision 12, is amended to read:

Subd. 12. **Order of expungement.** (a) Upon receiving notice that an offense qualifies for expungement, the court shall issue an order sealing all records relating to an arrest, indictment or information, trial, verdict, or dismissal and discharge for an offense described in subdivision 3, and any other offenses charged in addition to the underlying crime if identified by the Cannabis Expungement Board as eligible for expungement. The courts shall not order the Department of Health; the Department of Children, Youth, and Families; or the Department of Human Services to seal records under this section. If the Cannabis Expungement Board determined that the person's conviction should be vacated and charges should be dismissed, the order shall vacate and dismiss the charges.

(b) If the Cannabis Expungement Board determined that there is good cause to restore the person's right to possess firearms and ammunition, the court shall issue an order pursuant to section 609.165, subdivision 1d.

(c) If the Cannabis Expungement Board determined that an expunged record of a conviction or stay of adjudication may not be opened for purposes of a background check required under section 122A.18, subdivision 8, the court shall direct the order specifically to the Professional Educator Licensing and Standards Board.

5.1 (d) The court administrator shall send a copy of an expungement order issued under this
5.2 section to each agency and jurisdiction whose records are affected by the terms of the order
5.3 and send a letter to the last known address of the person whose offense has been expunged
5.4 identifying each agency to which the order was sent.

5.5 (e) In consultation with the commissioner of human services, the court shall establish a
5.6 schedule on which it shall provide the commissioner of human services a list identifying
5.7 the name and court file number or, if no court file number is available, the citation number
5.8 of each record for a person who received an expungement under this section.

5.9 (f) Data on the person whose offense has been expunged in a letter sent under this
5.10 subdivision are private data on individuals as defined in section 13.02, subdivision 12.

5.11 **EFFECTIVE DATE.** This section is effective the day following final enactment."

5.12 Amend the title accordingly