

House Study Bill 43 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to court records for residential forcible entry
2 and detainer actions.

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

1 Section 1. Section 648.22, Code 2023, is amended to read as
2 follows:

3 **648.22 Judgment — execution — costs — sealing of court**
4 **records.**

5 1. If the defendant is found guilty, judgment shall be
6 entered that the defendant be removed from the premises, and
7 that the plaintiff be put in possession of the premises, and an
8 execution for the defendant's removal within three days from
9 the judgment shall issue accordingly, to which judgment for
10 costs shall be entered in the judgment docket and lien index,
11 and to which shall be added a clause commanding the officer to
12 collect the costs as in ordinary cases.

13 2. In a residential forcible entry and detainer action, the
14 court shall enter an order sealing the court records of the
15 action not later than three days from the date of the hearing,
16 or from the date the hearing would have been held as provided
17 by law, if any of the following occurs:

18 a. The defendant is found not guilty.

19 b. By motion or upon the court's own determination, the
20 court finds there is no genuine issue of material fact between
21 the parties.

22 c. The case is dismissed.

23 d. The plaintiff does not appear for the hearing.

24 3. Upon application of a defendant found guilty in a
25 residential forcible entry and detainer action for nonpayment
26 of rent, the court shall enter an order sealing the record of
27 the action, the existence of the petition, all filings and
28 documentation within the case file, and any associated writs of
29 execution, if all of the following conditions are met:

30 a. More than five years have passed since the date of the
31 finding of guilt.

32 b. The applicant has not been found guilty in a subsequent
33 forcible entry and detainer action in the five-year period
34 directly preceding the application.

35 c. The applicant has not previously been granted a sealing

1 of a finding of guilt under this chapter within ten years prior
2 to the application.

3 d. The applicant has paid all court costs, fees, fines, and
4 any other financial obligation ordered by the court or assessed
5 by the clerk of the district court in the case.

6 4. The application to seal the record of the action shall be
7 included in the record the defendant wishes to seal, using a
8 form prescribed by the supreme court.

9 5. Upon sealing, the existence of the petition, all filings
10 and documentation within the case file, and any associated
11 writs of execution shall be removed from any publicly
12 accessible location under the direction of the judicial branch
13 or county, as applicable. Notwithstanding chapter 22, records
14 sealed upon satisfaction of the requirements specified in this
15 section shall not be available for public inspection except in
16 one of the following manners:

17 a. Upon request by the defendant or the attorney for the
18 defendant by filing a motion in the sealed case.

19 b. Upon application to the judicial branch using a form
20 prescribed by the supreme court for scholarly, educational,
21 journalistic, or governmental purposes only, provided that in
22 all cases, the names of minor children shall remain sealed
23 at all times, and that the names and personally identifiable
24 information of all persons named as defendants or included in
25 the plaintiff's petition shall be redacted and remain sealed
26 unless the court determines that release of such information is
27 necessary to fulfill the scholarly, educational, journalistic,
28 or governmental purpose of the request.

29 c. The clerk of court in the county in which an action is
30 originated shall maintain a record in the aggregate of all
31 filings and the final disposition of any such actions, to
32 include dismissal, default judgment, and writs associated with
33 disposition. The clerk of court shall make available to the
34 public and report annually such aggregate information in such
35 a manner prescribed by the supreme court as to protect the

1 identity of the parties while still providing the public with
2 information regarding eviction proceedings in the county.

3 6. Upon sealing, a consumer reporting agency shall
4 not disclose the existence of, or information regarding,
5 an eviction action or other civil action sealed or made
6 confidential under this section or use such action as a factor
7 to determine any score or recommendation to be included in a
8 consumer report regarding any person named in such case.

9 7. Subsections 3 through 6 do not apply to a money judgment
10 awarded for an action that was filed with a forcible entry
11 and detainer action or arising from the same set of facts and
12 circumstances.

13 EXPLANATION

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

16 This bill relates to sealing court records of residential
17 forcible entry and detainer actions (eviction actions).

18 The bill requires a court to seal the court records of an
19 eviction action not later than three days from the date of the
20 hearing if any of the following have occurred: the defendant
21 is found not guilty, the court finds there is no genuine issue
22 of material fact between the parties, the case is dismissed, or
23 the plaintiff does not appear for the hearing.

24 The bill provides that upon application of a defendant found
25 guilty in an eviction action for nonpayment of rent, the court
26 shall seal the court records if more than five years have
27 passed since disposition, the applicant has not been found
28 guilty in a subsequent eviction action in the five-year period
29 preceding the application, the applicant within the last 10
30 years has not been granted a sealing of eviction court records,
31 and the applicant has paid all costs. The application to seal
32 shall be included in the sealed court records.

33 The bill provides that upon sealing the court records, all
34 filings, documentation, and writs of association shall be
35 removed from any publicly accessible location. Sealed court

1 records shall not be available for public inspection except
2 upon request by the defendant or the attorney for the defendant
3 by filing a motion in the sealed case or application to the
4 judicial branch using a form to be prescribed by the supreme
5 court for scholarly, educational, journalistic, or governmental
6 purposes. The bill requires the clerk of court in the county
7 in which an action is originated to maintain a record in the
8 aggregate of all filings and to make such information available
9 to the public in such a manner prescribed by the supreme court
10 as to protect the identity of the parties while still providing
11 the public with information relating to eviction actions in the
12 county.

13 The bill provides that upon sealing a consumer reporting
14 agency shall not disclose the existence of, or information
15 regarding, an eviction action or other civil action sealed or
16 made confidential under the bill or use such action as a factor
17 to determine any score or recommendation to be included in a
18 consumer report regarding any person named in such case.

19 Under the bill, certain provisions do not apply to an
20 application to seal a record for an eviction action by a
21 defendant found guilty when a money judgment has been awarded
22 to the plaintiff.