

907.9 Discharge from probation.

1. At any time that the court determines that the purposes of probation have been fulfilled and fees imposed under section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the court may order the discharge of a person from probation.

2. At any time that a probation officer determines that the purposes of probation have been fulfilled and fees imposed under section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the officer may order the discharge of a person from probation after approval of the district director and notification of the sentencing court and the county attorney who prosecuted the case.

3. The sentencing judge may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge.

4. a. At the expiration of the period of probation if the fees imposed under section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the court shall order the discharge of the person from probation. If portions of the court debt remain unpaid, the person shall establish a payment plan with the clerk of the district court or the county attorney prior to the discharge. The court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person upon discharge. A person who has been discharged from probation shall no longer be held to answer for the person's offense.

b. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment, any counts dismissed by the court, which were contained in the indictment, information, or complaint that resulted in the deferred judgment, and any other related charges that were not contained in the indictment, information, or complaint but were dismissed, shall be expunged. However, the court's record shall not be expunged until the person has paid the restitution, civil penalties, court costs, fees, or other financial obligations ordered by the court or assessed by the clerk of the district court in the case that includes the deferred judgment. The expunged record 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 request and without court order, to an agency or person granted access to the deferred judgment docket under section 907.4, subsection 2. The court's record shall not be expunged in any other circumstances unless authorized by law.

c. A dismissed count or related charge shall be expunged pursuant to the provisions of paragraph "b" in the following manner:

(1) A count which was contained in the indictment, information, or complaint that resulted in the deferred judgment shall be expunged when the deferred judgment is expunged.

(2) A related charge that was not contained in the indictment, information, or complaint that resulted in the deferred judgment shall only be expunged upon a court order that identifies the related charge to be expunged.

d. A count or related charge that was dismissed shall not be expunged pursuant to paragraph "c" in any case in which a count or charge resulted in a conviction that was not expunged.

e. The provisions of paragraph "c" apply whether the deferred judgment was expunged prior to July 1, 2012, or on or after July 1, 2012.

f. The provisions of paragraph "b" that require payment of financial obligations as a condition for expungement of a deferred judgment apply to any deferred judgment that has not been expunged prior to July 1, 2012.

g. For purposes of this subsection, a charge or count is related to another charge or count if the charge or count arose from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan.

5. A probation officer or the director of the judicial district department of correctional services who acts in compliance with this section is acting in the course of the person's official duty and is not personally liable, either civilly or criminally, for the acts of a person discharged

from probation by the officer after such discharge, unless the discharge constitutes willful disregard of the person's duty.

[S13, §5447-a; C24, 27, 31, 35, 39, §3800; C46, 50, 54, 58, 62, 66, 71, 73, §247.20; C75, 77, §789A.6; C79, 81, §907.9]

88 Acts, ch 1168, §6; 90 Acts, ch 1251, §72; 91 Acts, ch 219, §27; 97 Acts, ch 125, §9; 97 Acts, ch 190, §11; 98 Acts, ch 1197, §7, 13; 2000 Acts, ch 1177, §4, 5; 2003 Acts, 1st Ex, ch 2, §61, 209; 2004 Acts, ch 1175, §205; 2008 Acts, ch 1172, §28; 2012 Acts, ch 1054, §3, 4

[SP] For transition provisions applicable to the duty of the court to expunge a dismissed count or related charge from the court's records, see 2012 Acts, ch 1054, §4