CHAPTER 907

DEFERRED JUDGMENT, DEFERRED OR SUSPENDED SENTENCE, AND PROBATION

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907.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Deferred judgment"* means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court and whereby the court assesses a civil penalty as provided in section 907.14 upon the entry of the deferred judgment. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

2. *"Deferred sentence"* means a sentencing option whereby the court enters an adjudication of guilt but does not impose a sentence. The court retains the power to sentence the defendant to any sentence it originally could have imposed subject to the defendant's compliance with conditions set by the court as a requirement of the deferred sentence.

3. *"Expunged"* means the court's criminal record with reference to a deferred judgment or any other criminal record that has been segregated in a secure area or database which is exempted from public access.

4. *"Suspended sentence"* means a sentencing option whereby the court pronounces judgment and imposes a sentence and then suspends execution of the sentence subject to the defendant's compliance with conditions set by the court as a requirement of the suspended sentence. Revocation of the suspended sentence results in the execution of sentence already pronounced.

5. *"Probation"* means the procedure under which a defendant, against whom a judgment of conviction of a public offense has been or may be entered, is released by the court subject to supervision by a resident of this state or by the judicial district department of correctional services.*

[C79, 81, §907.1]

88 Acts, ch 1168, §2; 2005 Acts, ch 143, §3; 2012 Acts, ch 1054, §1, 4

Referred to in **§901C.1**

*See §905.2

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

907.2 Probation service — probation officers.

Pursuant to designation by the court, probation services shall be provided by the judicial district department of correctional services. Probation officers shall perform the duties assigned to them by law and by the director of the judicial district department of correctional services.

Probation officers employed by the judicial district department of correctional services, while performing the duties prescribed by that department, are peace officers. Probation officers shall investigate all persons referred to them for investigation by the director of the judicial district department of correctional services which employs them. They shall furnish

to each person released under their supervision or committed to a community corrections residential facility operated by the judicial district department of correctional services, a written statement of the conditions of probation or commitment. They shall keep informed of each person's conduct and condition and shall use all suitable methods prescribed by the judicial district department of correctional services to aid and encourage the person to bring about improvements in the person's conduct and condition. Probation officers shall keep records of their work and shall make reports to the court when alleged violations occur and within no less than thirty days before the period of probation will expire. Probation officers shall coordinate their work with other social welfare agencies which offer services of a corrective nature operating in the area to which they are assigned.

[C79, 81, §907.2]

84 Acts, ch 1019, §4; 97 Acts, ch 125, §5; 98 Acts, ch 1197, §4, 13; 2000 Acts, ch 1177, §4, 5

Referred to in **§801.4**

907.3 Deferred judgment, deferred sentence, or suspended sentence.

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise any of the options contained in this section. However, this section does not apply to a forcible felony or to a violation of chapter 709 committed by a person who is a mandatory reporter of child abuse under section 232.69 in which the victim is a person who is under the age of eighteen.

1. *a.* With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon conditions as it may require. A civil penalty shall be assessed as provided in section 907.14 upon the entry of a deferred judgment. However, the court shall not defer judgment if any of the following is true:

(1) The defendant previously has been convicted of a felony. *"Felony"* means a conviction in a court of this or any other state or of the United States, of an offense classified as a felony by the law under which the defendant was convicted at the time of the defendant's conviction.

(2) Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief, two or more times anywhere in the United States.

(3) Prior to the commission of the offense the defendant had been granted a deferred judgment or similar relief in a felony prosecution anywhere in the United States within the preceding five years, measured from the date of granting of deferment of judgment to the date of commission of the offense.

(4) The defendant is a corporation.

(5) The offense is a violation of section 124.401, subsection 1, paragraph *"a"* or *"b"*, and the controlled substance is methamphetamine.

(6) The offense is a violation of section 321J.2 and the person has been convicted of a violation of that section or the person's driver's license has been revoked under chapter 321J, and any of the following apply:

(a) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(b) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(c) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(d) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(e) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

(7) The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

(8) The offense is a conviction for or plea of guilty to a violation of section 664A.7 or a finding of contempt pursuant to section 664A.7.

(9) The offense is a violation of chapter 692A.

(10) The offense is a violation of section 707.6A, subsection 1; or a violation of section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

(11) The defendant committed an assault as defined in section 708.1, against a peace officer in the performance of the peace officer's duty.

(12) Prior to the commission of the offense the defendant had been granted a deferred judgment or deferred sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or was granted similar relief anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A, and the current offense is a violation of section 708.2A.

(13) The offense is a violation of section 709.8 and the child is twelve years of age or under.

b. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

c. Upon fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 905.14, the defendant shall be discharged without entry of judgment.

2. *a.* At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. The court may assign the defendant to supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate. However, the court shall not defer the sentence for a violation of any of the following:

(1) The offense is a violation of section 124.401, subsection 1, paragraph "*a*" or "*b*", and the controlled substance is methamphetamine.

(2) Section 321J.2, subsection 1, if any of the following apply:

(a) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(b) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(c) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(d) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(e) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

(3) The offense is a violation of section 462A.14, and a mandatory minimum sentence must be served or mandatory minimum fine must be paid by the defendant.

(4) Section 664A.7 or for contempt pursuant to section 664A.7.

(5) The offense is a violation of chapter 692A.

(6) Section 707.6A, subsection 1; or section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

(7) Section 708.2A, if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that

jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A.

b. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility to be followed by a period of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall not be given credit for such time served. However, a person committed to an alternate jail facility or a community correctional residential treatment facility who has probation revoked shall be given credit for time served in the facility. The court shall not suspend any of the following sentences:

a. The minimum term of two days imposed pursuant to section 708.2A, subsection 7, paragraph "*a*", or a sentence imposed under section 708.2A, subsection 7, paragraph "*b*".

b. A sentence imposed pursuant to section 664A.7 for contempt.

c. A mandatory minimum sentence of incarceration imposed pursuant to a violation of section 321J.2, subsection 1; furthermore, the court shall not suspend any part of a sentence not involving incarceration imposed pursuant to section 321J.2, subsection 3, 4, or 5, beyond the mandatory minimum if any of the following apply:

(1) If the defendant's alcohol concentration established by the results of an analysis of a specimen of the defendant's blood, breath, or urine withdrawn in accordance with chapter 321J exceeds .15, regardless of whether or not the alcohol concentration indicated by the chemical test minus the established margin of error inherent in the device or method used to conduct the test equals an alcohol concentration of .15 or more.

(2) If the defendant has previously been convicted of a violation of section 321J.2, subsection 1, or a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(3) If the defendant has previously received a deferred judgment or sentence for a violation of section 321J.2, subsection 1, or for a violation of a statute in another state substantially corresponding to section 321J.2, subsection 1.

(4) If the defendant refused to consent to testing requested in accordance with section 321J.6.

(5) If the offense under chapter 321J results in bodily injury to a person other than the defendant.

d. A sentence imposed pursuant to section 707.6A, subsection 1; or section 707.6A, subsection 4, involving operation of a motor vehicle while intoxicated.

e. The offense is a violation of section 124.401, subsection 1, paragraph "*a*" or "*b*", and the controlled substance is methamphetamine.

f. A mandatory minimum sentence or fine imposed for a violation of section 462A.14.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3800;** C46, 50, 54, 58, 62, 66, 71, 73, §247.20; C75, 77, §789A.1; C79, 81, §907.3; 81 Acts, ch 206, §17; 82 Acts, ch 1167, §28]

86 Acts, ch 1220, §45; 88 Acts, ch 1168, §3, 4; 89 Acts, ch 296, §93; 91 Acts, ch 218, §30; 91 Acts, ch 219, §25, 26; 93 Acts, ch 157, §11, 12; 95 Acts, ch 180, §16, 17; 96 Acts, ch 1131, §4; 96 Acts, ch 1193, §17 – 19; 97 Acts, ch 177, §31 – 33; 97 Acts, ch 189, §2; 97 Acts, ch 190, §8, 9; 98 Acts, ch 1138, §6 – 9, 29 – 31, 37; 99 Acts, ch 182, §8; 2000 Acts, ch 1099, §11 – 13; 2000 Acts, ch 1201, §15; 2001 Acts, ch 165, §7 – 9; 2002 Acts, ch 1050, §56, 57; 2003 Acts, ch 156, §17 – 19; 2005 Acts, ch 143, §4; 2006 Acts, ch 1101, §17 – 19; 2009 Acts, ch 119, §61, 62; 2010 Acts, ch 1193, §70, 81; 2011 Acts, ch 34, §155; 2012 Acts, ch 1138, §91 – 93; 2013 Acts, ch 90, §214

Referred to in **§321.218**, **§321J.2**, **§321J.4**, **§462A.14**, **§692A.111**, **§707.6A**, **§708.2A**, **§708.11**, **§714.3A**, **§901.5**, **§901B.1**, **§903A.5**, **§907.3A**, **§907.4**, **§907.9**, **§907.10**, **§907.14**

Definition of forcible felony, §702.11

For bail after deferred judgment, see §811.2, 811.11

Applicability of 2012 amendment to subsection 3 to a person who commits an offense prior to May 25, 2012, upon waiver of certain rights; 2012 Acts, ch 1138, §92, 93

907.3A Youthful offender status.

1. Notwithstanding section 907.3 but subject to any conditions of the waiver order, the trial court shall, upon a plea of guilty or a verdict of guilty, place the juvenile over whom the juvenile court has waived jurisdiction pursuant to section 232.45, subsection 7, on youthful offender status. The court shall transfer supervision of the youthful offender to the juvenile court for disposition in accordance with section 232.52. An adjudication of delinquency entered by the juvenile court at disposition for a public offense shall not be deemed a conviction and shall not preclude the subsequent entry of a deferred judgment or sentence, conviction, or sentence by the district court. The court shall require supervision of the youthful offender in accordance with section 232.54, subsection 1, paragraph "*h*", or subsection 2 of this section.

2. The court shall hold a hearing prior to a youthful offender's eighteenth birthday to determine whether the youthful offender shall continue on youthful offender status after the youthful offender's eighteenth birthday. Notwithstanding section 901.2, the court may order a presentence investigation report including a report for an offense classified as a class "A" felony. The court shall review the report of the juvenile court regarding the youthful offender prepared pursuant to section 232.56, and any presentence investigation report, if ordered by the court. The court shall hear evidence by or on behalf of the youthful offender, by the county attorney, and by the person or agency to which custody of the youthful offender was transferred. The court shall make its decision, pursuant to the judgment and sentencing options available in subsection 3, after considering the services available to the youthful offender, the evidence presented, the juvenile court's report, the presentence investigation report if ordered by the court, the interests of the youthful offender, and interests of the community.

3. *a.* Notwithstanding any provision of the Code which prescribes a mandatory minimum sentence for the offense committed by the youthful offender, following transfer of the youthful offender from the juvenile court back to the court having jurisdiction over the criminal proceedings involving the youthful offender, the court shall order one of the following sentencing options:

(1) Defer judgment and place the youthful offender on probation, upon the consent of the youthful offender.

(2) Defer the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(3) Suspend the sentence and place the youthful offender on probation upon such terms and conditions as the court may require.

(4) A term of confinement as prescribed by law for the offense.

(5) Discharge the youthful offender from youthful offender status and terminate the sentence.

b. Notwithstanding anything in section 907.7 to the contrary, if the district court grants the youthful offender a deferred judgment, continues the youthful offender deferred sentence, or enters a sentence and suspends the sentence, and places the youthful offender on probation, the term of formal supervision shall commence upon entry of the order by the district court and may continue for a period not to exceed five years. If the district court enters a sentence of confinement, and the youthful offender was previously placed in secure confinement by the juvenile court under the terms of the initial disposition order or any modification to the initial disposition order, the person shall receive credit for any time spent in secure confinement. During any period of probation imposed by the district court, a youthful offender who violates the terms of probation is subject to section 908.11.

97 Acts, ch 126, §51; 2009 Acts, ch 41, §262; 2013 Acts, ch 42, §15

Referred to in §232.8, §232.45, §232.50, §232.52, §232.54, §232.55, §232.56

907.4 Deferred judgment docket.

1. A deferment of judgment under section 907.3 shall be entered promptly by the clerk of

the district court, or the clerk's designee, into the deferred judgment database of the state, which shall serve as the deferred judgment docket. The deferred judgment docket shall be maintained by the state court administrator and shall not be destroyed. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall search the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant.

2. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, county attorneys, the department of public safety, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney, or departments.

[C75, 77, §789A.1; C79, 81, §907.4]

84 Acts, ch 1292, §20; 85 Acts, ch 197, §44; 88 Acts, ch 1168, §5; 97 Acts, ch 128, §5; 2003 Acts, ch 151, §61; 2003 Acts, 1st Ex, ch 2, §60, 209; 2011 Acts, ch 95, §10; 2012 Acts, ch 1054, §2, 4

Referred to in **§602.8102(135)**, **§901C.1**, **§907.9**

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

907.5 Standards for release on probation — written reasons.

1. Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination, the court shall consider all of the following:

a. The age of the defendant.

b. The defendant's prior record of convictions and prior record of deferments of judgment if any.

c. The defendant's employment circumstances.

d. The defendant's family circumstances.

e. The defendant's mental health and substance abuse history and treatment options available in the community and the correctional system.

f. The nature of the offense committed.

g. Such other factors as are appropriate.

2. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

[C75, 77, §789A.1(2); C79, 81, §907.5]

2011 Acts, ch 7, §4; 2012 Acts, ch 1021, §118

907.6 Conditions of probation — regulations.

Probationers are subject to the conditions established by the judicial district department of correctional services subject to the approval of the court, and any additional reasonable conditions which the court or district department may impose to promote rehabilitation of the defendant or protection of the community. Conditions may include but are not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 907.13.

[C79, 81, §907.6; 82 Acts, ch 1069, §3]

83 Acts, ch 39, §2; 96 Acts, ch 1193, §20

Referred to in **§321J.2**

907.7 Length of probation.

1. The length of the probation shall be for a period as the court shall fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor. The period of probation may be extended for up to one year including one year beyond the maximum period as provided in section 908.11.

2. The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony.

3. The court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services and that court debt collected pursuant to section 602.8107 has been paid. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

4. In determining the length of the probation, the court shall determine what period is most likely to provide maximum opportunity for the rehabilitation of the defendant, to allow enough time to determine whether or not rehabilitation has been successful, and to protect the community from further offenses by the defendant and others.

[C66, 71, 73, §247.20; C75, 77, §789A.2; C79, 81, §907.7]

97 Acts, ch 125, §6; 97 Acts, ch 190, §10; 98 Acts, ch 1197, §5, 13; 2000 Acts, ch 1177, §4, 5; 2008 Acts, ch 1172, §27; 2010 Acts, ch 1175, §1, 4

907.8 Supervision during probationary period.

1. A person released on probation shall be assigned to a probation officer. Both the person and the person's probation officer shall be furnished with the conditions of the person's probation including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe, in writing. The probation officer shall explain these conditions and regulations to the person and shall supervise, assist, and counsel the person during the term of the person's probation.

2. *a.* When probation is granted, the court shall order said person committed to the custody, care, and supervision:

(1) Of any suitable resident of this state; or

(2) Of the judicial district department of correctional services.

b. Jurisdiction over these persons shall remain with the sentencing court.

3. In each case in which the court orders the person committed to the custody, care, and supervision of the judicial district department of correctional services, the clerk of the district court shall at once furnish the director of the judicial district department of correctional services with certified copies of the indictment or information, the minutes of testimony attached thereto, the judgment entry if judgment is not deferred, and the original mittimus. The county attorney shall at once advise the director, by letter, that the defendant has been placed under the supervision of the judicial district department of correctional services and give the director a detailed statement of the facts and circumstances surrounding the crime committed and the record and history of the defendant as may be known to the county attorney. If the defendant is confined in the county jail at the time of sentence, the court may order the defendant held until arrangements are made by the judicial district department of correctional services for the defendant's employment and the defendant has signed the necessary probation papers. If the defendant is not confined in the county jail at the time of sentence, the court may order the defendant to remain in the county wherein the defendant has been convicted and sentenced and report to the sheriff as to the defendant's whereabouts.

[S13, §5447-a; C24, 27, 31, 35, 39, §**3801;** C46, 50, 54, 58, 62, 66, 71, 73, §247.21; C75, 77, §789A.7; C79, 81, §907.8; 82 Acts, ch 1162, §12, 14]

97 Acts, ch 125, §7; 98 Acts, ch 1197, §6, 13; 2000 Acts, ch 1177, §4, 5; 2013 Acts, ch 90, §215

Referred to in **§331.756(83)**, **§602.8102(135)**

907.8A Repealed by 98 Acts, ch 1197, §10, 13; 2000 Acts, ch 1177, §4, 5.

907.9 Discharge from probation — procedure — expungement of deferred judgments.

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

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

Section not amended; headnote revised

907.10 Release on probation after completing program.

When the court has determined that any person ordered to participate in a locally administered correctional program, pursuant to section 907.3, subsection 1, has successfully completed such program, the court shall order such person to be released on probation.

[C79, 81, §907.10]

907.11 Maximum period of confinement.

In no case shall the total time served in confinement and in any locally administered correctional program exceed the maximum period of confinement authorized for the public offense of which the defendant stands convicted.

[C79, 81, §907.11]

907.12 Repealed by 82 Acts, ch 1162, §13. See chapter 910.

907.13 Community service sentencing — liability — workers' compensation.

1. The court may establish as a condition of probation that the defendant perform unpaid community service for a time not to exceed the maximum period of confinement for the offense of which the defendant is convicted. If this condition is established, the defendant in cooperation with the probation officer assigned to the defendant and in cooperation with the judicial district department of correctional services, shall promptly prepare a plan to implement the community service condition. The plan shall include but shall not be limited to the suggested placement of the defendant and the suggested number of hours of services to be required.

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion. As an option for modification of a plan, the court may allow a defendant to complete some part or all of the defendant's community service obligation through the donation of property to a charitable organization other than a governmental subdivision. A donation of property to a charitable organization offered in satisfaction of some part or all of a community service obligation under this subsection is not a deductible contribution for the purposes of federal or state income taxes.

3. At any time during the probation period the defendant may request and the court shall grant a hearing on any matter related to the plan of community service.

4. Failure of the defendant to comply with subsection 1 or to comply with the plan of community service as approved or modified by the court shall constitute a violation of the conditions of probation. Without limitation, the court may modify the plan of community service or modify the required hours of service, but not beyond the maximum hours of service specified in subsection 1.

5. The state of Iowa is exclusively liable, according to and under chapter 669, for a tortious act committed by a defendant while performing unpaid community service.

6. The state of Iowa is exclusively liable for and shall pay any compensation becoming due any person under section 85.59.

[82 Acts, ch 1069, §4]

84 Acts, ch 1280, §3; 88 Acts, ch 1168, §7

Referred to in **§462A.14**, **§901.3**, **§907.6**

Community service as restitution; see §910.2

907.14 Deferred judgment — civil penalty — distribution.

1. Upon the entry of a deferred judgment pursuant to section 907.3, a defendant shall be assessed a civil penalty of an amount not less than the amount of any criminal fine authorized by law for the offense under section 902.9 or section 903.1.

2. The clerk of the district court shall collect and remit the civil penalty to the state court administrator for deposit in the general fund of the state as provided in section 602.8108.

2005 Acts, ch 143, §5

Referred to in **§321J.2**, **§907.1**, **§907.3**, **§908.11**