

House Amendment to  
Senate File 385

S-3120

1 Amend Senate File 385, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 3, through page 2, line  
4 18, and inserting:

5 <1. As used in this section, unless the context  
6 otherwise requires, "*expunge*" and "*expungement*" mean  
7 the same as expunged in section 907.1.

8 2. *a.* Except as provided in paragraph "*b*", upon  
9 application of a defendant or a prosecutor in a  
10 criminal case, or upon the court's own motion in a  
11 criminal case, the court shall enter an order expunging  
12 the record of such criminal case if the court finds  
13 that the defendant has established that all of the  
14 following have occurred, as applicable:

15 (1) The criminal case contains one or more criminal  
16 charges in which an acquittal was entered for all  
17 criminal charges, or in which all criminal charges were  
18 otherwise dismissed.

19 (2) All court costs, fees, and other financial  
20 obligations ordered by the court or assessed by the  
21 clerk of the district court have been paid.

22 (3) A minimum of one hundred eighty days have  
23 passed since entry of the judgment of acquittal or of  
24 the order dismissing the case relating to all criminal  
25 charges, unless the court finds good cause to waive  
26 this requirement for reasons including but not limited  
27 to the fact that the defendant was the victim of  
28 identity theft or mistaken identity.

29 (4) The case was not dismissed due to the defendant  
30 being found not guilty by reason of insanity.

31 (5) The defendant was not found incompetent to  
32 stand trial in the case.

33 *b.* The court shall not enter an order expunging the  
34 record of a criminal case under paragraph "*a*" unless  
35 all the parties in the case have had time to object on  
36 the grounds that one or more of the relevant conditions  
37 in paragraph "*a*" have not been established.

38 3. The record in a criminal case expunged under  
39 this section is a confidential record exempt from  
40 public access under section 22.7 but shall be made  
41 available by the clerk of the district court, upon  
42 request and without court order, to the defendant or  
43 to an agency or person granted access to the deferred  
44 judgment docket under section 907.4, subsection 2.

45 4. This chapter does not apply to dismissals  
46 related to a deferred judgment under section 907.9.

47 5. This chapter applies to all public offenses, as  
48 defined under section 692.1.

49 6. The court shall advise the defendant of the  
50 provisions of this chapter upon either the acquittal or

1 the dismissal of all criminal charges in a case.  
2 7. The supreme court may prescribe rules governing  
3 the procedures applicable to the expungement of the  
4 record of a criminal case under this chapter.  
5 8. This section shall apply to all relevant  
6 criminal cases that occurred prior to, on, or after the  
7 effective date of this Act.>  
8 2. Page 2, line 19, by striking <July> and  
9 inserting <January>  
10 3. Title page, line 3, after <date> by inserting  
11 <and applicability>  
12 4. By renumbering as necessary.