

Senate File 2382 - Introduced

SENATE FILE _____
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3212)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to deferred judgment criminal records.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
3 TLSB 5972SV 82
4 jm/nh/5

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1 1 Section 1. Section 907.1, Code 2007, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 2A. "Expunged" means the court's criminal
1 4 record with reference to a deferred judgment has been
1 5 segregated in an area or database which is secured from public
1 6 access.

1 7 Sec. 2. Section 907.4, Code 2007, is amended to read as
1 8 follows:

1 9 907.4 DEFERRED JUDGMENT DOCKET.

1 10 1. A deferment of judgment under section 907.3 shall be
1 11 entered promptly by the clerk of the district court, or the
1 12 clerk's designee, into the deferred judgment database of the
1 13 state, which shall serve as the deferred judgment docket. The
1 14 deferred judgment docket shall be maintained by the state
1 15 court administrator and shall not be destroyed. The docket
1 16 shall contain a permanent record of the deferred judgment
1 17 including the name and date of birth of the defendant, the
1 18 district court docket number, the nature of the offense, and
1 19 the date of the deferred judgment. Before granting deferred
1 20 judgment in any case, the court shall search the deferred
1 21 judgment docket and shall consider any prior record of a
1 22 deferred judgment against the defendant.

1 23 2. The permanent record provided for in ~~this section~~
1 24 subsection 1 is a confidential record exempted from public
1 25 access under section 22.7 and shall be available only to
1 26 justices of the supreme court, judges of the court of appeals,
1 27 district judges, district associate judges, judicial
1 28 magistrates, clerks of the district court, judicial district
1 29 departments of correctional services, county attorneys, and
1 30 the department of corrections requesting information pursuant
1 31 to this section, or the designee of a justice, judge,
1 32 magistrate, clerk, judicial district department of
1 33 correctional services, or county attorney, or department.

1 34 Sec. 3. Section 907.9, subsection 4, Code 2007, is amended
1 35 to read as follows:

2 1 4. At the expiration of the period of probation and if the
2 2 fees imposed under sections 815.9 and 905.14 have been paid or
2 3 on condition that unpaid supervision fees be paid, the court
2 4 shall order the discharge of the person from probation, and
2 5 the court shall forward to the governor a recommendation for
2 6 or against restoration of citizenship rights to that person.
2 7 A person who has been discharged from probation shall no
2 8 longer be held to answer for the person's offense.

2 9 4A. Upon discharge from probation, if judgment has been
2 10 deferred under section 907.3, the court's criminal record with
2 11 reference to the deferred judgment shall be expunged. ~~The~~
2 12 ~~record maintained by the state court administrator as required~~
2 13 ~~by section 907.4 shall not be expunged.~~ The expunged record
2 14 is a confidential record exempt from public access under
2 15 section 22.7 but shall be made available by the clerk of the
2 16 district court, upon request and without court order, to an
2 17 agency or person granted access to the deferred docket under
2 18 section 907.4. The court's record shall not be expunged in
2 19 any other circumstances unless otherwise authorized by law.

EXPLANATION

2 20

2 21 This bill relates to deferred judgment criminal records.

2 22 The bill defines "expunged" to mean the court's criminal
2 23 record with reference to a deferred judgment has been
2 24 segregated into a separate area or database which is secured
2 25 from public access. The expunged record is a confidential
2 26 record exempt from public access under Code section 22.7, but
2 27 shall be made available by the clerk of the district court,
2 28 upon request and without court order, to the agencies or
2 29 persons granted access to the deferred judgment docket under
2 30 Code section 907.4.

2 31 Currently, the court's criminal record relating to a
2 32 deferred judgment is expunged, but a record of the deferred
2 33 judgment is made permanent in the deferred judgment docket.
2 34 The permanent record in the deferred judgment docket under
2 35 current law includes the name and date of birth of the
3 1 defendant, the district court docket number, the nature of the
3 2 offense, and the date of the deferred judgment.

3 3 The bill also strikes a provision in Code section 907.9
3 4 requiring the state court administrator to maintain deferred
3 5 judgment records and moves the provision to Code section
3 6 907.4.

3 7 The bill also provides that the court's record shall not be
3 8 expunged unless otherwise authorized by law. Current law
3 9 authorizes criminal records to be expunged under Code sections
3 10 123.46, 321.211A, and 321.385A.

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