

Senate File 2361 - Introduced

SENATE FILE 2361
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1203)

A BILL FOR

1 An Act relating to criminal law by making changes to existing
2 criminal offenses, deferred judgments and expunged records,
3 and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.51, Code 2009, is amended to read as
2 follows:

3 **232.51 Disposition of child with mental illness or mental**
4 **retardation.**

5 If the evidence received at an adjudicatory or a
6 dispositional hearing indicates that the child is mentally
7 ill, the court may direct the juvenile court officer or the
8 department to initiate proceedings or to assist the child's
9 parent or guardian to initiate civil commitment proceedings
10 in the juvenile court. These proceedings in the juvenile
11 court shall adhere to the requirements of chapter 229. If the
12 evidence received at an adjudicatory or a dispositional hearing
13 indicates that the child is mentally retarded, the court may
14 direct the juvenile court officer or the department to initiate
15 proceedings or to assist the child's parent or guardian to
16 initiate civil commitment proceedings in the juvenile court.
17 These proceedings shall adhere to the requirements of chapter
18 222. ~~If the child is committed as a child with mental illness~~
19 ~~or mental retardation, any order adjudicating the child to have~~
20 ~~committed a delinquent act shall be set aside and the petition~~
21 ~~shall be dismissed.~~

22 Sec. 2. Section 236.2, subsection 2, paragraph c, Code
23 Supplement 2009, is amended to read as follows:

24 c. The assault is between persons who are parents of the
25 same ~~minor~~ child, regardless of whether they have been married
26 or have lived together at any time.

27 Sec. 3. Section 719.1, subsections 1 and 2, Code 2009, are
28 amended to read as follows:

29 1. a. A person who knowingly resists or obstructs anyone
30 known by the person to be a peace officer, emergency medical
31 care provider under chapter 147A, or fire fighter, whether
32 paid or volunteer, in the performance of any act which is
33 within the scope of the lawful duty or authority of that
34 officer, emergency medical care provider under chapter 147A,
35 or fire fighter, whether paid or volunteer, or who knowingly

1 resists or obstructs the service or execution by any authorized
2 person of any civil or criminal process or order of any
3 court, commits a simple misdemeanor. In addition to any
4 other penalties, the punishment imposed for a violation of
5 this subsection paragraph shall include assessment of a fine
6 of not less than two hundred fifty dollars. ~~However, if a~~
7 ~~person commits an interference with official acts, as defined~~
8 ~~in this subsection, and in so doing inflicts bodily injury~~
9 ~~other than serious injury, that person commits an aggravated~~
10 ~~misdemeanor. If a person commits an interference with official~~
11 ~~acts, as defined in this subsection, and in so doing inflicts~~
12 ~~or attempts to inflict serious injury, or displays a dangerous~~
13 ~~weapon, as defined in section 702.7, or is armed with a~~
14 ~~firearm, that person commits a class "D" felony.~~

15 b. If a person commits a violation of paragraph "a" which
16 results in bodily injury, the person commits an aggravated
17 misdemeanor.

18 c. If a person commits a violation of paragraph "a" which
19 results in serious injury, or the person displays a dangerous
20 weapon, as defined in section 702.7, or is armed with a
21 firearm, the person commits a class "D" felony.

22 2. a. A person under the custody, control, or supervision
23 of the department of corrections who knowingly resists,
24 obstructs, or interferes with a correctional officer, agent,
25 employee, or contractor, whether paid or volunteer, in the
26 performance of the person's official duties, commits a serious
27 misdemeanor. ~~If a person violates this subsection and in so~~
28 ~~doing commits an assault, as defined in section 708.1, the~~
29 ~~person commits an aggravated misdemeanor. If a person violates~~
30 ~~this subsection and in so doing inflicts or attempts to inflict~~
31 ~~bodily injury other than serious injury to another, displays~~
32 ~~a dangerous weapon, as defined in section 702.7, or is armed~~
33 ~~with a firearm, the person commits a class "D" felony. If a~~
34 ~~person violates this subsection and uses or attempts to use~~
35 ~~a dangerous weapon, as defined in section 702.7, or inflicts~~

1 ~~serious injury to another, the person commits a class "C"~~
2 ~~felony.~~

3 b. If a person violates paragraph "a" and commits an
4 assault, as defined in section 708.1, the person commits an
5 aggravated misdemeanor.

6 c. If a person commits a violation of paragraph "a" which
7 results in serious injury, or the person displays a dangerous
8 weapon, as defined in section 702.7, or is armed with a
9 firearm, the person commits a class "D" felony.

10 d. If a person commits a violation of paragraph "a" and uses
11 or attempts to use a dangerous weapon, as defined in section
12 702.7, or the violation results in serious injury to another,
13 the person commits a class "C" felony.

14 Sec. 4. Section 728.5, Code 2009, is amended to read as
15 follows:

16 **728.5 Public indecent exposure in certain establishments.**

17 1. An owner, manager, or person who exercises direct control
18 over a place of business required to obtain a sales tax permit
19 shall be guilty of a serious misdemeanor under any of the
20 following circumstances:

21 ~~1-~~ a. If such person allows or permits the actual or
22 simulated public performance of any sex act upon or in such
23 place of business.

24 ~~2-~~ b. If such person allows or permits the exposure of the
25 genitals or buttocks or female breast of any person who acts
26 as a waiter or waitress.

27 ~~3-~~ c. If such person allows or permits the exposure of
28 the genitals or female breast nipple of any person who acts
29 as an entertainer, whether or not the owner of the place of
30 business in which the activity is performed employs or pays any
31 compensation to such person to perform such activity.

32 ~~4-~~ d. If such person allows or permits any person to remain
33 in or upon the place of business who exposes to public view the
34 person's genitals, pubic hair, or anus.

35 ~~5-~~ e. If such person advertises that any activity

1 prohibited by this section is allowed or permitted in such
2 place of business.

3 ~~6.~~ f. If such person allows or permits a minor to engage
4 in or otherwise perform in a live act intended to arouse or
5 satisfy the sexual desires or appeal to the prurient interests
6 of patrons.

7 2. However, if such person allows or permits a minor to
8 participate in any act included in ~~subsections 1 through~~
9 4 subsection 1, paragraphs "a" through "d", the person shall be
10 guilty of an aggravated misdemeanor.

11 3. The Except for subsection 1, paragraph "f",
12 the provisions of this section shall not apply to a theater,
13 concert hall, art center, museum, or similar establishment
14 which is primarily devoted to the arts or theatrical
15 performances and in which any of the circumstances contained
16 in this section were permitted or allowed as part of such art
17 exhibits or performances.

18 Sec. 5. Section 728.8, Code 2009, is amended to read as
19 follows:

20 **728.8 Suspension of licenses or permits.**

21 Any person who knowingly permits a violation of section
22 728.2, 728.3, or 728.5, subsection ~~6~~ 1, paragraph "f", to occur
23 on premises under the person's control shall have all permits
24 and licenses issued to the person under state or local law as a
25 prerequisite for doing business on such premises revoked for
26 a period of six months. The county attorney shall notify all
27 agencies responsible for issuing licenses and permits of any
28 conviction under section 728.2, 728.3, or 728.5, subsection
29 ~~6~~ 1, paragraph "f".

30 Sec. 6. Section 907.1, Code 2009, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 2A. "*Expunged*" means the court's criminal
33 record with reference to a deferred judgment has been
34 segregated in an area or database which is secured from public
35 access.

1 Sec. 7. Section 907.4, Code 2009, is amended to read as
2 follows:

3 **907.4 Deferred judgment docket.**

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

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

28 Sec. 8. Section 907.9, subsection 4, Code 2009, is amended
29 to read as follows:

30 4. At the expiration of the period of probation if the
31 fees imposed under section 905.14 and court debt collected
32 pursuant to section 602.8107 have been paid, the court shall
33 order the discharge of the person from probation. If portions
34 of the court debt remain unpaid, the person shall establish a
35 payment plan with the clerk of the district court or the county

1 attorney prior to the discharge. The court shall forward to
2 the governor a recommendation for or against restoration of
3 citizenship rights to that person upon discharge. A person who
4 has been discharged from probation shall no longer be held to
5 answer for the person's offense.

6 4A. Upon discharge from probation, if judgment has been
7 deferred under section 907.3, the court's criminal record with
8 reference to the deferred judgment shall be expunged. ~~The~~
9 ~~record maintained by the state court administrator as required~~
10 ~~by section 907.4 shall not be expunged.~~ The expunged record is
11 a confidential record exempt from public access under section
12 22.7 but shall be made available by the clerk of the district
13 court, upon request and without court order, to an agency or
14 person granted access to the deferred docket under section
15 907.4. The court's record shall not be expunged in any other
16 circumstances unless otherwise authorized by law.

17 EXPLANATION

18 This bill makes changes to criminal offenses, relates to
19 deferred judgments and expunged records, and makes penalties
20 applicable.

21 The amendment to Code section 232.51 strikes a provision
22 permitting an order adjudicating a child to have committed a
23 delinquent act to be set aside if the child is committed as a
24 child with mental illness or mental retardation.

25 The amendment to Code section 236.2 specifies that a person
26 commits domestic abuse if the assault is between persons who
27 are parents of the same child. Currently, the law specifies
28 that the parents be the parents of the same minor child.

29 The amendment to Code section 719.1 divides each criminal
30 offense under Code section 719.1 into separate paragraphs.

31 The amendment to Code section 719.1(1) also provides that
32 a person commits an aggravated misdemeanor interference with
33 official acts offense, if the offense results in bodily injury
34 to a peace officer, fire fighter, or emergency medical care
35 provider. Current law provides that a person commits an

1 aggravated misdemeanor interference with official acts offense,
2 if the person inflicts bodily injury on such persons.

3 The amendment to Code section 719.1(1) provides that a
4 person commits a class "D" felony interference with official
5 acts offense, if the violation results in serious injury to
6 a peace officer, fire fighter, or emergency medical care
7 provider. Current law provides that a person commits a class
8 "D" felony interference with official acts offense, if the
9 person inflicts or attempts to inflict serious injury on such
10 persons.

11 The amendment to Code section 719.1(2) provides that a
12 person commits a class "D" felony interference with official
13 acts offense on a correctional officer, or similar type of
14 employee or volunteer, if the violation results in serious
15 injury to another person. Current law provides that a person
16 commits a class "D" felony interference with official acts
17 offense on such a person, if the person inflicts or attempts to
18 inflict bodily injury upon another person.

19 The amendment to Code section 719.1(2) also provides that a
20 person commits a class "C" felony interference with official
21 acts on a correctional officer, or similar type of employee
22 or volunteer, if the violation results in serious injury on
23 another person. Current law provides that a person commits a
24 class "C" felony interference with official acts offense such
25 a person, if the person inflicts serious injury to another
26 person.

27 The amendment to Code section 728.5 provides that a person
28 commits a serious misdemeanor for permitting public indecent
29 exposure in a theater, concert hall, art center, museum, or
30 similar establishment which is primarily devoted to the arts if
31 such person allows or permits a minor to engage in a live act
32 intended to arouse or satisfy the sexual desires or appeal to
33 the prurient interests of patrons.

34 The amendments to Code sections 907.1, 907.4, and 907.9
35 relate to deferred judgment criminal records.

1 The bill defines "expunged" to mean the court's criminal
2 record with reference to a deferred judgment has been
3 segregated into a separate area or database which is secured
4 from public access. The expunged record is a confidential
5 record exempt from public access, but shall be made available
6 by the clerk of the district court, upon request and without
7 court order, to the agencies or persons granted access to the
8 deferred judgment docket under Code section 907.4.

9 Currently, the court's criminal record relating to a
10 deferred judgment is expunged, but a record of the deferred
11 judgment is made permanent in the deferred judgment docket.
12 The permanent record in the deferred judgment docket under
13 current law includes the name and date of birth of the
14 defendant, the district court docket number, the nature of the
15 offense, and the date of the deferred judgment.

16 The bill also strikes a provision in Code section 907.9
17 requiring the state court administrator to maintain deferred
18 judgment records and moves the provision to Code section 907.4.

19 The bill also provides that the court's record shall not
20 be expunged unless otherwise authorized by law. Current law
21 authorizes criminal records to be expunged under Code sections
22 123.46, 321.211A, and 321.385A.