

Senate File 385 - Introduced

SENATE FILE 385
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1110)

A BILL FOR

1 An Act relating to the expungement of not-guilty verdicts and
2 dismissed criminal-charge records, and including effective
3 date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 901C.1 Not-guilty verdicts and
2 criminal-charge dismissals — expungement.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Expunge" and "expungement" mean the same as expunged in
6 section 907.1.

7 b. "Related case" means a separate criminal case that arises
8 from the same transaction or occurrence or from two or more
9 transactions or occurrences constituting parts of a common
10 scheme or plan that form the basis for a criminal case.

11 2. Upon application of a defendant to expunge the
12 record relating to the defendant in a criminal case or upon
13 application by the prosecutor in such a criminal case, or upon
14 the court's own motion, the court shall expunge the record of
15 a criminal case containing one or more criminal charges in
16 which an acquittal was entered for all criminal charges or
17 all criminal charges were otherwise dismissed in the case, if
18 the court finds that the defendant has established all of the
19 following, as applicable:

20 a. All court costs, fees, and other financial obligations
21 ordered by the court or assessed by the clerk of the district
22 court have been paid.

23 b. The case was dismissed with prejudice or the case is
24 beyond the limitations for the commencement of criminal actions
25 as set forth in chapter 802.

26 c. (1) The defendant has not been charged with a crime in a
27 related case.

28 (2) If the defendant was charged with a crime in one or more
29 related cases, no charges are pending in a related case, the
30 defendant has not been convicted of a crime in a related case,
31 and the dismissal of the case was not part of a plea bargain.

32 d. (1) The case was not dismissed due to the defendant
33 being found not guilty by reason of insanity.

34 (2) The defendant was not found incompetent to stand trial.

35 e. All parties in the case had notice of the proposed

1 expungement and an opportunity to object.

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

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

10 5. This chapter applies to all public offenses.

11 6. The court shall advise the defendant of the provisions of
12 this chapter upon the acquittal of all criminal charges in a
13 case or upon the dismissal of all criminal charges in a case.

14 7. The supreme court shall prescribe rules governing the
15 procedures applicable to the expungement of the record of a
16 criminal case under this chapter.

17 Sec. 2. Section 907.9, subsection 4, paragraph c,
18 unnumbered paragraph 1, Code 2015, is amended to read as
19 follows:

20 A Except as provided in section 901C.1, a dismissed count or
21 related charge shall be expunged pursuant to the provisions of
22 paragraph "b" in the following manner:

23 Sec. 3. COURT RULES. The supreme court may prescribe rules
24 to implement this Act to be effective July 1, 2016.

25 Sec. 4. EFFECTIVE DATE. Except for the section of this Act
26 requiring the supreme court to prescribe rules to be effective
27 July 1, 2016, this Act takes effect July 1, 2016.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to the expungement of not-guilty verdicts
32 and dismissed criminal-charge records.

33 The bill provides that upon application, the court shall
34 expunge the record of a criminal case containing one or
35 more criminal charges in which an acquittal was entered for

1 all criminal charges or all criminal charges were otherwise
2 dismissed in the case, if the court finds that the defendant
3 has established certain factors.

4 Prior to expungement, the bill requires that all court
5 costs, fees, and other financial obligations must have been
6 paid and that the case was dismissed with prejudice or the case
7 is beyond the limitations for commencement of criminal actions.
8 The bill requires that the person has not been charged with
9 a crime in a related case. However, if the person has been
10 charged in a related case, the bill requires that no charges
11 are pending in the related case, the person has not been
12 convicted of a crime in the related case, and the dismissal of
13 the case was not part of a plea bargain. The bill requires that
14 the case was not dismissed due to the defendant being found
15 not guilty by reason of insanity or being found incompetent to
16 stand trial in the case. The bill requires that all parties to
17 the case be notified of the proposed expungement and be granted
18 an opportunity to object.

19 The bill does not apply to dismissals related to a deferred
20 judgment under Code section 907.9 but does apply to all public
21 offenses.

22 The court is required to advise the person of the provisions
23 of the bill upon the acquittal of all criminal charges in a
24 case or upon the dismissal of all criminal charges.

25 The bill defines "expunged" to mean a criminal record has
26 been segregated in a secure area or database which is exempted
27 from public access. The bill also specifies that an expunged
28 record is a confidential record but shall be made available by
29 the clerk of the district court to an agency or person granted
30 access to the deferred judgment docket under Code section
31 907.4(2).

32 The bill defines "related case" to mean a separate criminal
33 case that arises from the same transaction or occurrence or
34 from two or more transactions or occurrences constituting parts
35 of a common scheme or plan that form the basis for a criminal

1 case.

2 The supreme court may prescribe rules to implement the bill.

3 Except for the section of the bill relating to the
4 prescribing of rules by the supreme court, the bill takes
5 effect on July 1, 2016.