

**House File 2011 - Introduced**

HOUSE FILE 2011

BY OLSON, MITCHELL, and JONES

**A BILL FOR**

1 An Act relating to a deferred judgment and the denial,  
2 suspension, or revocation of a professional license,  
3 driver's license, or boating license.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 156.9, subsection 2, paragraph e, Code  
2 2020, is amended to read as follows:

3 e. Conviction of any crime related to the practice of  
4 mortuary science or implicating the licensee's competence to  
5 safely perform mortuary science services, including but not  
6 limited to a crime involving moral character, dishonesty,  
7 fraud, theft, embezzlement, extortion, or controlled  
8 substances, in a court of competent jurisdiction in this  
9 state, or in another state, territory, or district of the  
10 United States, or in a foreign jurisdiction. For purposes of  
11 this paragraph, "*conviction*" includes a guilty plea, ~~deferred~~  
12 ~~judgment~~, or other finding of guilt, but does not include a  
13 deferred judgment. A certified copy of the judgment is prima  
14 facie evidence of the conviction.

15 Sec. 2. Section 272C.3, subsection 2, unnumbered paragraph  
16 1, Code 2020, is amended to read as follows:

17 Each licensing board may impose one or more of the following  
18 as licensee discipline, except as provided in section 272C.10,  
19 subsection 2:

20 Sec. 3. Section 272C.10, Code 2020, is amended to read as  
21 follows:

22 **272C.10 Rules for revocation, ~~or~~ suspension, or denial of**  
23 **license.**

24 1. A licensing board established after January 1, 1978,  
25 and pursuant to the provisions of **this chapter** shall by rule  
26 include provisions for the revocation, ~~or~~ suspension, or denial  
27 of a license which shall include but is not limited to the  
28 following:

29 ~~1-~~ a. Fraud in procuring a license.

30 ~~2-~~ b. Professional incompetency.

31 ~~3-~~ c. Knowingly making misleading, deceptive, untrue or  
32 fraudulent representations in the practice of the licensee's  
33 profession or engaging in unethical conduct or practice harmful  
34 or detrimental to the public. Proof of actual injury need not  
35 be established.

1     ~~4.~~ d. Habitual intoxication or addiction to the use of  
2 drugs.

3     ~~5.~~ e. Conviction of a felony related to the profession or  
4 occupation of the licensee. A copy of the record of conviction  
5 or plea of guilty shall be conclusive evidence.

6     ~~6.~~ f. Fraud in representations as to skill or ability.

7     ~~7.~~ g. Use of untruthful or improbable statements in  
8 advertisements.

9     ~~8.~~ h. Willful or repeated violations of the provisions of  
10 this chapter.

11     2. A licensing board shall not revoke, suspend, or deny  
12 a license on the basis that a person received a deferred  
13 judgment.

14     Sec. 4. Section 321J.2, subsection 8, Code 2020, is amended  
15 to read as follows:

16     8. a. In determining if a violation charged is a second  
17 or subsequent offense for purposes of criminal sentencing ~~or~~  
18 ~~license revocation~~ under [this chapter](#):

19     ~~a.~~ (1) Any conviction or revocation deleted from motor  
20 vehicle operating records pursuant to [section 321.12](#) shall not  
21 be considered as a previous offense.

22     ~~b.~~ (2) Deferred judgments entered pursuant to [section 907.3](#)  
23 for violations of [this section](#) shall be counted as previous  
24 offenses.

25     ~~c.~~ (3) Convictions or the equivalent of deferred judgments  
26 for violations in any other states under statutes substantially  
27 corresponding to [this section](#) shall be counted as previous  
28 offenses. The courts shall judicially notice the statutes of  
29 other states which define offenses substantially equivalent to  
30 the one defined in [this section](#) and can therefore be considered  
31 corresponding statutes. Each previous violation on which  
32 conviction or deferral of judgment was entered prior to the  
33 date of the violation charged shall be considered and counted  
34 as a separate previous offense.

35     b. Any conviction or revocation deleted from motor vehicle

1 operating records pursuant to section 321.12A or a deferred  
2 judgment, or the equivalent in another state, shall not be  
3 considered as a previous offense for purposes of license  
4 revocation.

5 Sec. 5. Section 321J.4, subsection 3, Code 2020, is amended  
6 by striking the subsection.

7 Sec. 6. Section 462A.14, subsection 4, paragraphs b and c,  
8 Code 2020, are amended to read as follows:

9 b. Deferred judgments entered pursuant to [section 907.3](#) for  
10 violations of [this section](#) shall not be counted as previous  
11 offenses.

12 c. ~~Convictions or the equivalent of deferred judgments~~ for  
13 violations in any other states under statutes substantially  
14 corresponding to [this section](#) shall be counted as previous  
15 offenses. The courts shall judicially notice the statutes of  
16 other states which define offenses substantially equivalent  
17 to an offense defined in [this section](#) and can therefore be  
18 considered corresponding statutes. Each previous violation  
19 on which conviction ~~or deferral of judgment~~ was entered prior  
20 to the date of the violation charged shall be considered and  
21 counted as a separate previous offense.

22 Sec. 7. Section 542.5, subsection 2, Code 2020, is amended  
23 to read as follows:

24 2. An applicant for a certificate who has been convicted of  
25 forgery, embezzlement, obtaining money under false pretenses,  
26 theft, extortion, conspiracy to defraud, or other similar  
27 offense, or of any crime involving moral character or honesty,  
28 in a court of competent jurisdiction in this state, or another  
29 state, territory, or a district of the United States, or in  
30 a foreign jurisdiction, may be denied a certificate by the  
31 board on the grounds of the conviction. For purposes of this  
32 subsection, "*conviction*" means a conviction for an indictable  
33 offense and includes a guilty plea, ~~deferred judgment from~~  
34 ~~the time of entry of the deferred judgment until the time the~~  
35 ~~defendant is discharged by the court without entry of judgment,~~

1 or other finding of guilt by a court of competent jurisdiction,  
2 but does not include a deferred judgment.

3 Sec. 8. Section 543B.15, subsection 3, paragraph c, Code  
4 2020, is amended to read as follows:

5 c. For purposes of **this section**, "*convicted*" or "*conviction*"  
6 means a conviction for an indictable offense and includes a  
7 court's acceptance of a guilty plea, ~~deferred judgment from~~  
8 ~~the time of entry of the deferred judgment until the time the~~  
9 ~~defendant is discharged by the court without entry of judgment,~~  
10 or other finding of guilt by a court of competent jurisdiction  
11 in this state, or in any other state, territory, or district  
12 of the United States, or in any foreign jurisdiction, but does  
13 not include a deferred judgment. A copy of the record of  
14 conviction is conclusive evidence of such conviction.

15 Sec. 9. Section 543B.29, subsection 1, paragraph f,  
16 unnumbered paragraph 1, Code 2020, is amended to read as  
17 follows:

18 Conviction of an offense included in section 543B.15,  
19 subsection 3. For purposes of **this section**, "*conviction*" means  
20 a conviction for an indictable offense and includes the court's  
21 acceptance of a guilty plea, ~~a deferred judgment from the time~~  
22 ~~of entry of the deferred judgment until the time the defendant~~  
23 ~~is discharged by the court without entry of judgment,~~ or other  
24 finding of guilt by a court of competent jurisdiction, but  
25 does not include a deferred judgment. A copy of the record of  
26 conviction, guilty plea, ~~deferred judgment,~~ or other finding of  
27 guilt is conclusive evidence.

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 a deferred judgment and the denial,  
32 suspension, or revocation of a professional license, driver's  
33 license, or boating license. The bill prohibits a licensing  
34 board from denying, suspending, or revoking a person's  
35 professional license, driver's license, or boating license

1 because the person received a deferred judgment. The bill  
2 also prohibits a deferred judgment from being used as a reason  
3 to revoke a person's driver's license, or as a factor in  
4 determining whether a person's driver's license or boating  
5 license will be revoked.

6 The bill makes conforming changes in the Code chapters  
7 governing the regulation of the practice of mortuary science,  
8 and the regulation of certified public accountants and real  
9 estate brokers and salespersons.