

CHAPTER 1054
EXPUNGING CRIMINAL RECORDS
H.F. 2379

AN ACT relating to expunging certain criminal records, and including applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 907.1, Code 2011, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. “*Expunged*” means the court’s criminal record with reference to a deferred judgment or any other criminal record that has been segregated in a secure area or database which is exempted from public access.

Sec. 2. Section 907.4, Code Supplement 2011, is amended to read as follows:

907.4 Deferred judgment docket.

1. A deferment of judgment under section 907.3 shall be entered promptly by the clerk of the district court, or the clerk’s designee, into the deferred judgment database of the state, which shall serve as the deferred judgment docket. The deferred judgment docket shall be maintained by the state court administrator and shall not be destroyed. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall search the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant.

2. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, county attorneys, the department of public safety, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney, or departments.

Sec. 3. Section 907.9, subsection 4, Code 2011, is amended to read as follows:

4. a. At the expiration of the period of probation if the fees imposed under section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the court shall order the discharge of the person from probation. If portions of the court debt remain unpaid, the person shall establish a payment plan with the clerk of the district court or the county attorney prior to the discharge. The court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person upon discharge. A person who has been discharged from probation shall no longer be held to answer for the person’s offense.

b. Upon discharge from probation, if judgment has been deferred under section 907.3, the court’s criminal record with reference to the deferred judgment, any counts dismissed by the court, which were contained in the indictment, information, or complaint that resulted in the deferred judgment, and any other related charges that were not contained in the indictment, information, or complaint but were dismissed, shall be expunged. ~~The record maintained by the state court administrator as required by section 907.4 shall not be expunged.~~ However, the court’s record shall not be expunged until the person has paid the restitution, civil penalties, court costs, fees, or other financial obligations ordered by the court or assessed by the clerk of the district court in the case that includes the deferred judgment. The expunged record is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court, upon request and without court order, to an agency or person granted access to the deferred judgment docket under section 907.4, subsection 2. The court’s record shall not be expunged in any other circumstances unless authorized by law.

c. A dismissed count or related charge shall be expunged pursuant to the provisions of paragraph “b” in the following manner:

(1) A count which was contained in the indictment, information, or complaint that resulted in the deferred judgment shall be expunged when the deferred judgment is expunged.

(2) A related charge that was not contained in the indictment, information, or complaint that resulted in the deferred judgment shall only be expunged upon a court order that identifies the related charge to be expunged.

d. A count or related charge that was dismissed shall not be expunged pursuant to paragraph "c" in any case in which a count or charge resulted in a conviction that was not expunged.

e. The provisions of paragraph "c" apply whether the deferred judgment was expunged prior to the effective date of this Act, or on or after the effective date of this Act.

f. The provisions of paragraph "b" that require payment of financial obligations as a condition for expungement of a deferred judgment apply to any deferred judgment that has not been expunged prior to the effective date of this Act.

g. For purposes of this subsection, a charge or count is related to another charge or count if the charge or count arose from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan.

Sec. 4. APPLICABILITY AND COMPLIANCE. The judicial branch shall have until July 1, 2013, to comply with the provisions of this Act on expungement of the court's record of a dismissed count or related charge.

Approved April 4, 2012