

FILED

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CLERK SUPREME COURT

CHAPTER 2
RULES OF CRIMINAL PROCEDURE

EXPUNGEMENT

Rule 2.80 Expungement of dismissed cases or acquittals.

2.80(1) Either an individual or a prosecuting attorney may file an application to expunge the district court criminal records of a case under Iowa Code section 901C.2 where an acquittal was entered for all criminal charges or where all criminal charges have been otherwise dismissed. The court may also expunge an eligible case on its own motion. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented individual.

2.80(2) An application for expungement of a criminal case record under Iowa Code section 901C.2 shall be initiated by completing and filing an application that substantially complies with Rule 2.86—Form 1: *Application to Expunge Court Record under Iowa Code section 901C.2*.

2.80(3) The application must be filed in the case where expungement is sought and served on the county attorney. If the application is filed by a county attorney, the county attorney shall provide notice to the defendant and any counsel of record.

2.80(4) The application and all attachments shall be confidential.

2.80(5) For the purposes of this rule, a “case” refers to a separately numbered case.

2.80(6) For the purposes of this rule, “otherwise dismissed” includes an inactive case number without the case having had an outcome under that case number.

Rule 2.81 Expungement of eligible misdemeanor convictions.

2.81(1) An individual seeking expungement of district court criminal records for an eligible misdemeanor as defined in Iowa Code section 901C.3 shall file an application. The application may be filed by an attorney of record in the case, by an attorney who enters a limited appearance for the expungement proceedings, or by a self-represented individual.

2.81(2) An application for expungement of a misdemeanor under Iowa Code section 901C.3 shall be initiated by executing and filing an application that

1 substantially complies with Rule 2.86—Form 2: *Application to Expunge*
2 *Misdemeanor Court Records under Iowa Code section 901C.3*. An application for
3 expungement of a misdemeanor under Iowa Code section 901C.3 must be
4 accompanied by an official Division of Criminal Investigation Iowa criminal
5 history record check dated within the past 30 days.

6 **2.81(3)** The application must be filed in the case where expungement is
7 sought and served on the county attorney.

8 **2.81(4)** If the individual seeking misdemeanor expungement has records
9 eligible for expungement under different case numbers that arose from the
10 same transaction or occurrence, the individual must file a copy of the
11 application in each case.

12 **2.81(5)** The application and all attachments shall be confidential.
13

14 **Rule 2.82 Expungement of public intoxication, possession of alcohol**
15 **under the legal age, and certain prostitution cases.**

16 **2.82(1)** An individual seeking expungement of district court criminal
17 records from an eligible misdemeanor as defined in Iowa Code section 123.46,
18 123.47, or 725.1 shall file an application. The application may be filed by an
19 attorney of record in the case, by an attorney who enters a limited appearance
20 for the expungement proceedings, or by a self-represented individual.

21 **2.82(2)** An application for expungement of a case under Iowa Code section
22 123.46 shall be initiated by executing and filing an application that
23 substantially complies with Rule 2.86—Form 3: *Application to Expunge Public*
24 *Intoxication Court Records under Iowa Code section 123.46*.

25 **2.82(3)** An application for expungement of a case under Iowa Code section
26 123.47 shall be initiated by executing and filing an application that
27 substantially complies with Rule 2.86—Form 4: *Application to Expunge*
28 *Possession of Alcohol under the Legal Age Court Records under Iowa Code*
29 *section 123.47*.

30 **2.82(4)** An application for expungement of a case under Iowa Code section
31 725.1 shall be initiated by executing and filing an application that substantially
32 complies with Rule 2.86—Form 5: *Application to Expunge Prostitution Court*
33 *Records under Iowa Code section 725.1*.

34 **2.82(5)** The application and all attachments shall be confidential.
35

1 **Rule 2.83 Expungement proceedings.**

2 **2.83(1)** The county attorney may file a response to an application under
3 rule 2.80, 2.81, or 2.82. The response shall be filed within 20 days after service
4 of the application unless otherwise ordered by the court. The response shall be
5 confidential.

6 **2.83(2)** The district court shall grant the expungement if, after
7 consideration of the application, the response (if any), and any other pertinent
8 information, it determines that the requirements for expungement have been
9 met. The court may conduct a hearing.

10 **2.83(3)** For purposes of Iowa Code sections 901C.2(1)(a)(2) and
11 901C.3(1)(d), the referenced financial obligations are those obligations in the
12 case or cases where expungement is sought. Room and board fees sought
13 under a separate civil action pursuant to Iowa Code section 356.7 are not
14 considered to be obligations in the case or cases where expungement is sought.
15 Payment of court debt or other financial obligations is not a precondition for
16 expungement under Iowa Code sections 123.46(6), 123.47(8), or 725.1 (1)(c).

17 **2.83(4)** For purposes of Iowa Code section 901C.3(1)(b), any pending charge
18 of a public offense as defined in Iowa Code section 692.1 shall be considered a
19 pending criminal charge.

20 **2.83(5)** For purposes of Iowa Code section 901C.3(1)(c), all charges as to
21 which a deferred judgment was granted at the same time shall be considered
22 one deferred judgment.

23
24 **Rule 2.84 When expungement is granted.**

25 **2.84(1)** When expungement of a dismissal or acquittal is granted under
26 Iowa Code section 901C.2, the court shall order that the record in that criminal
27 case shall become a confidential record exempt from public access under Iowa
28 Code section 22.7. The record shall be made available by the clerk of the
29 district court, upon request and without court order, to the defendant or to an
30 agency or person granted access to the deferred judgment docket under Iowa
31 Code 907.4(2). The record shall not otherwise be accessible except by court
32 order.

33 **2.84(2)** When expungement of a misdemeanor conviction is granted under
34 Iowa Code section 901C.3, the court shall order that the record in that criminal
35 case shall become a confidential record exempt from public access under Iowa
36 Code section 22.7. The record shall not be accessible except by court order.

1 **2.84(3)** When expungement of a conviction for public intoxication,
2 possession of alcohol under legal age, or certain prostitution charges is granted
3 under Iowa Code section 123.46, 123.47, or 725.1, the court shall order that
4 the record in the criminal case shall become a confidential record exempt from
5 public access under Iowa Code section 22.7. The record shall not be accessible
6 except by court order.

7 **2.84(4)** The district court shall have jurisdiction to issue further orders as
8 necessary to implement a grant of expungement.

9 **2.84(5)** Appellate records, other than appeals of simple misdemeanors to
10 district court, are not subject to expungement.

11
12 **Rule 2.85 Confidential record of expunged misdemeanors.** In order to
13 implement Iowa Code section 901C.3(4), the Iowa Judicial Branch shall
14 maintain a confidential record of expunged misdemeanors. This record shall be
15 confidential and exempt from public access under Iowa Code section 22.7.
16 Before granting an application for expungement under Iowa Code section
17 901C.3, the district court shall access the record in a manner authorized by
18 the record's designated custodian to determine whether the applicant has
19 received a prior misdemeanor expungement. If a prior misdemeanor
20 expungement is found, the case name, case number, and date of expungement
21 shall be provided to the parties.

1 **Rule 2.86 Forms**

Rule 2.86—Form 1: *Application to Expunge Court Record under Iowa Code section 901C.2*

If you do not understand how to use this form, or if you are unsure whether you should use this form, talk to an attorney.

In the Iowa District Court for _____ County <i>County where you are filing this Application</i>	
State of Iowa vs. <hr style="border: 0.5px solid black;"/> Defendant	Case no. _____ <p style="text-align: center;">Application to Expunge Court Record under Iowa Code section 901C.2</p> <p style="font-size: small;">If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). Disability coordinators cannot provide legal advice.</p>

The undersigned Defendant respectfully applies to the court for an order expunging the court records in this case pursuant to Iowa Code section 901C.2. In support of this application, Defendant states that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. This criminal case contains one or more criminal charges for which:
Check one
 - A. An acquittal was entered for all criminal charges.
 - B. All criminal charges have been dismissed.

2. All court costs, fees, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the charges in this case have been satisfied in full.

3. Since entry of the judgment of acquittal or of the order dismissing the case:
Check one
 - A. More than 180 days have passed.
 - B. The court should waive the 180-day requirement because:

Check this box if you have attached a sheet with additional information.

4. This case was not dismissed due to Defendant being found not guilty by reason of insanity.

5. Defendant was not found incompetent to stand trial in this case.

Continue to next page

Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3

Note: This form is for expunging **misdemeanor convictions**. Rule 2.86—Form 1 is to be used for expungement of criminal case records where the defendant was acquitted or the charges were dismissed. **Obtaining the advice of counsel is recommended.** Each individual is only allowed one Iowa Code section 901C.3 expungement in the individual's lifetime. If you have multiple misdemeanor convictions, choosing which to expunge may be a difficult strategic decision.

In the Iowa District Court for _____ County <i>County where you are filing this Application</i>	
State of Iowa vs. _____ Defendant	Case no(s). _____ _____ Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3 <small>If you need assistance to participate in court due to a disability, call the disability coordinator (information at www.iowacourts.gov/for-the-public/ada). Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). Disability coordinators cannot provide legal advice.</small>

The undersigned Defendant respectfully applies to the court for an order expunging the misdemeanor court records in the above-captioned case (or cases) pursuant to Iowa Code section 901C.3. In support of this application, Defendant states that the following statements are true and correct to the best of Defendant's knowledge:

Read, complete, and check each item if you agree.

1. Defendant's personal information:

Current legal name:

Full first name *Full middle name* *Full last name*
(write "N/A" if none)

All other names ever used (including any other previous legal names and nicknames):

Full first name *Full middle name* *Full last name*
(write "N/A" if none)

Check this box if you have attached a sheet with additional alternate names.

Personal identifying information:

 / / _____ _____
Date of birth *Driver's License Number* *Social Security Number*
(month/day/year)

Rule 2.86—Form 2: Application to Expunge Misdemeanor Court Records under Iowa Code section 901C.3, continued

2. Defendant has not been granted a prior Iowa Code section 901C.3 expungement.
3. This expungement application involves related cases and Defendant seeks the expungement of the misdemeanor court records in all of following cases that arise out of the same transaction or occurrence: *See Iowa Code § 901C.3(3).*

Check this box if you have attached a sheet with additional information.

NOTE: You must file this application separately in each of these cases.

4. The misdemeanor criminal convictions covered by this application are eligible for expungement. *NOTE: Convictions under Iowa Code sections 123.46, 123.47(3) (or similar local ordinance), 235B.20, 321.218, 321A.32, 321J.21, 321J.2, 707.5, 708.2(3), 708.2A, 708.7, 708.11, 708.12, 716.8(3) or (4), 721.2, 721.10, 723.1; or chapters 717C, 719, 720, 721.2, 724, 726, 728, 901A; or a sex offense as defined in section 692A.101 are ineligible.*
5. All court costs, fees, fines, restitution, and any other financial obligations ordered by the court or assessed by the clerk of district court in relation to the misdemeanor convictions covered by this application have been paid in full.
6. More than eight years have passed since the date of the misdemeanor convictions identified in section 2.
7. Defendant has no pending criminal charges. *NOTE: For purposes of this question, a "criminal" charge means any public offense as defined in Iowa Code section 692.1.*
8. Defendant has not previously been granted more than one deferred judgment. *All charges as to which a deferred judgment was granted at the same time are considered one deferred judgment.*
9. Defendant has attached a Division of Criminal Investigation Iowa criminal history records check dated within the past 30 days of the filing of this application. *Information regarding obtaining the records check can be found at: <https://dps.iowa.gov/divisions/criminal-investigation/criminal-history/record-check-forms>*

Read Before Signing

Please check each statement below after you have read it.

- I understand that I must provide a copy of this application to the county attorney.
- I understand that if I file this application to expunge multiple cases, all cases must be related to the same transaction or occurrence.
- I understand that Iowa Code section 901C.3 only permits me one misdemeanor expungement in my lifetime.
- I understand that the records in a criminal case expunged under this section are confidential and exempt from public access under Iowa Code section 22.7, but the clerk of district court may make the records available upon court order.

