

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 71

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO CRIMINAL HISTORY RECORDS AND CRIME INFORMATION; AMENDING SECTION 19-2604, IDAHO CODE, TO PROVIDE THAT THE DISCHARGE OF A DEFENDANT SHALL NOT RESULT IN THE EXPUNGEMENT OF THE DEFENDANT’S CRIMINAL HISTORY RECORD.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-2604, Idaho Code, be, and the same is hereby amended to read as follows:

19-2604. DISCHARGE OF DEFENDANT – AMENDMENT OF JUDGMENT – CRIMINAL HISTORY RECORD NOT EXPUNGED. (1) If sentence has been imposed but suspended, or if sentence has been withheld, upon application of the defendant and upon satisfactory showing that the defendant has at all times complied with the terms and conditions upon which he was placed on probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may, if convinced by the showing made that there is no longer cause for continuing the period of probation, and if it be compatible with the public interest, terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant; and this shall apply to the cases in which defendants have been convicted and granted probation by the court before this law goes into effect, as well as to cases which arise thereafter. The final dismissal of the case as herein provided shall have the effect of restoring the defendant to his civil rights.

(2) If sentence has been imposed but suspended during the first one hundred eighty (180) days of a sentence to the custody of the state board of correction, and the defendant placed upon probation as provided in subsection 4. of section 19-2601, Idaho Code, upon application of the defendant, the prosecuting attorney, or upon the court’s own motion, and upon satisfactory showing that the defendant has at all times complied with the terms and conditions of his probation, or has successfully completed and graduated from an authorized drug court program or mental health court program and has at all times complied with the terms and conditions of probation during any period of probation that may have been served following such graduation, the court may amend the judgment of conviction from a term in the custody of the state board of correction to "confinement in a penal facility" for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction.

(3) Subsection (2) of this section shall not apply to any judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code. A judgment of conviction for a violation of any offense requiring sex offender registration as set forth in section 18-8304, Idaho Code, shall not be subject to dismissal or

1 reduction under this section. A conviction for the purposes of this chapter means that the
2 person has pled guilty or has been found guilty, notwithstanding the form of the judgment or
3 withheld judgment.

4 (4) Any action taken by a court pursuant to this section shall not result in the
5 expungement of the defendant's criminal history record, as defined in section 67-3001(4), Idaho
6 Code.