

# HOUSE BILL REPORT

## HB 1257

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**As Passed House:**

February 27, 2009

**Title:** An act relating to deferred prosecution files.

**Brief Description:** Eliminating the requirement that courts segregate deferred prosecution files.

**Sponsors:** Representatives Goodman, Rodne, O'Brien, Simpson and Moeller.

**Brief History:**

**Committee Activity:**

Judiciary: 1/28/09, 1/29/09 [DP].

**Floor Activity**

Passed House: 2/27/09, 94-0.

**Brief Summary of Bill**

- Removes the requirement that courts segregate deferred prosecution files from the court's regular files.

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**HOUSE COMMITTEE ON JUDICIARY**

**Majority Report:** Do pass. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

**Staff:** Trudes Tango (786-7384)

**Background:**

A person charged with a misdemeanor or gross misdemeanor in district or municipal court may petition the court for a deferred prosecution. A deferred prosecution program requires the person to undergo treatment in a two-year program. If the person successfully completes the program, the court will dismiss the charges three years after the successful completion of the treatment program. If a person fails to successfully complete the treatment program, the court will determine whether to remove the person from the deferred prosecution and enter judgment on the charge.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The person petitioning for a deferred prosecution must allege in the petition that alcoholism, drug addiction, or mental problems caused the person to commit the offense and that treatment is necessary to prevent a reoccurrence. In addition to other conditions to which the person must agree for a deferred prosecution, the person must be evaluated by a state-approved treatment facility. The treatment facility will submit a treatment plan to the court. If the court approves the plan and grants deferred prosecution, the court must attach the treatment plan to the person's file, remove it from the regular court dockets, and file it in a special deferred prosecution file.

**Summary of Bill:**

The requirement that deferred prosecution files be filed in a special court file different than the regular court docket is removed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill will make the justice system more efficient. When the deferred prosecution statutes were first drafted, there was concern that people petitioning for deferred prosecution would be afraid that their information and treatment plan, which is part of the deferred prosecution, could be accessible to the general public. Alcoholism was and still is looked upon as a taboo. The statutes required the files with the treatment plans to be kept separate so there was no chance of accidentally disclosing those files. Courts do not disclose those reports and the statute is not necessary. In practice, courts flag the file as a deferred prosecution and they are handled appropriately. The provision is archaic and is generally not followed by most courts today.

(Opposed) None.

**Persons Testifying:** Representative Goodman, prime sponsor; and Michael Lambo, District and Municipal Court Judges Association.

**Persons Signed In To Testify But Not Testifying:** None.