

ALASKA STATE LEGISLATURE

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Sponsor Statement

HB 34

This Act authorizes the expungement, or the physical elimination of a record of a conviction that has been set aside following a suspended imposition of sentence.

Current statutes confer upon judges the power to suspend imposition of sentences (referred to as "SIS") when it is satisfied that the ends of justice and the best interest of both the public and the defendant will be served. Further, AS 12.55.085(e) gives the court the option *to set aside* that criminal conviction following the defendant's successful completion of the conditions of their suspended sentence. Clearly, this judicial tool is intended to liberate the deserving defendant from the lingering consequences of a criminal conviction.

Over the years, defendants and some judges mistakenly believed that the criminal conviction that had been set aside "went away" and the defendant was free of any of its consequences. However, in 1995, the Alaska Supreme Court ruled that the set aside statute didn't quite say that. In *Journey v. State*, the Court held that because Alaska's 1965 SIS statute omitted the term "expungement," the criminal information must remain in the individual's record. Without specific legislative authorization the conviction record remains and is readily available for the public, employers, credit agencies, and others to see.

HB 34 breathes life into Alaska's SIS statute by essentially completing the thought of the statutory intent. In other words, HB 34 writes into the law what many had assumed was already there: a criminal conviction set aside by the court may go away and the defendant can be free from its consequences. The record of that criminal conviction may be expunged.

This isn't a panacea for all Alaskans wayward in their youth. This is a very narrowly focused bill, and because of the applicability clause, SISs may only be expunged following passage of the bill. Additional language has been added as a disclaimer that the State of Alaska has no control over public records subject to expungement that have already been disseminated to the public.

As a practical matter, *expungement* refers to the deletion of the computerized criminal history information related to the set aside conviction.

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