**South Carolina General Assembly**

126th Session, 2025-2026

**H. 4090**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Rose

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Introduced in the House on February 25, 2025

Currently residing in the House Committee on **Judiciary**

Summary: Conditional discharge, magistrate level offenses

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/25/2025 House Introduced and read first time (House Journal‑page 22)

 2/25/2025 House Referred to Committee on **Judiciary** (House Journal‑page 22)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4090&session=126&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/25/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/4090_20250225.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 22‑5‑940 SO AS TO PROVIDE FOR THE CONDITIONAL DISCHARGE OF ONE MAGISTRATE’s LEVEL OFFENSE WITH THE CONSENT OF THE PROSECUTOR OR PROSECUTING OFFICER.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 11, Chapter 5, Title 22 of the S.C. Code is amended by adding:

 Section 22‑5‑940. (A)(1) Except as provided in item (2), whenever any person who pleads guilty to or is found guilty of a magistrate’s level offense, the court, without entering a judgment of guilt and with the consent of both the accused and the prosecutor or prosecuting officer, may defer further proceedings and place him on probation upon terms and conditions as it requires. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

 (2) This section does not apply to persons charged with driving under the influence of alcohol or drugs.

 (B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), the person may apply to the court for an order to expunge from all official records all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

 (C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of one hundred fifty dollars. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census.

SECTION 2. This act takes effect upon approval by the Governor.

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