

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 4: DISPOSITION OF OFFENDERS

§ 4116. Conditional Discharge for Drug Possession as First Offense.

(a) Whenever any person who has not previously been convicted of any offense under this title, the Trust Territory Code, or under any statute of the United States or of any State or Territory relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under division 2, chapter 1 of this title [6 CMC § 2101 et seq.], the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions. Upon violation of a term or condition the court may enter an adjudication of guilt and proceed as provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings. Discharge and dismissal under this section is without court adjudication of guilt and may not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime including the additional penalties imposed for second or subsequent convictions under 6 CMC § 2116. Discharge and dismissal under this section may occur only once with respect to any person.

(b) Upon the dismissal of the person and discharge of proceedings under subsection (a) of this section, the person may apply to the court for an order to expunge from all official records (other than the nonpublic records retained by the court solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, the person qualifies under this section) all recordation relating to his or her arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines after hearing, that the person was dismissed and the proceedings discharged, it shall enter that order. The effect of the order is to restore the person, in the contemplation of the law, to the status he or she occupied before arrest or indictment or information. No person as to whom an order of this type has been entered may be held hereafter under any provisions of any law to be guilty of perjury or otherwise giving a false statement by reason of a failure to recite or acknowledge the arrest, or indictment or information, or trial in response to any inquiry made of the person for any purpose.

Source: PL 3-71, § 1 (§ 1216).