

2015 -- S 0064

LC000203

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senators Picard, and Metts

Date Introduced: January 13, 2015

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-1.3-1, 12-1.3-2 and 12-1.3-3 of the General Laws in Chapter  
2 12-1.3 entitled "Expungement of Criminal Records" are hereby amended to read as follows:

3 **12-1.3-1. Definitions.** -- For purposes of this chapter only, the following definitions  
4 apply:

5 (1) "Crime of violence" includes murder, manslaughter, first degree arson, kidnapping  
6 with intent to extort, robbery, larceny from the person, first degree sexual assault, second degree  
7 sexual assault, first and second degree child molestation, assault with intent to murder, assault  
8 with intent to rob, assault with intent to commit first degree sexual assault, burglary, and entering  
9 a dwelling house with intent to commit murder, robbery, sexual assault, or larceny.

10 (2) "Expungement of records and records of conviction" means the sealing and retention  
11 of all records of a conviction and/or probation and the removal from active files of all records and  
12 information relating to conviction and/or probation.

13 (3) ~~"First offender"~~ "Qualified Offender" means a person who has been convicted of a  
14 felony offense or a misdemeanor offense, and who has not been previously convicted of or placed  
15 on probation for more than two (2) a felony felonies or ~~a misdemeanor~~ misdemeanors and against  
16 whom there is no criminal proceeding pending in any court.

17 (4) "Law enforcement agency" means a state police organization of this or any other  
18 state, the enforcement division of the department of environmental management, the office of the  
19 state fire marshal, the capitol police, a law enforcement agency of the federal government, and

1 any agency, department, or bureau of the United States government which has as one of its  
2 functions the gathering of intelligence data.

3 (5) "Records" and "records of conviction and/or probation" include all court records, all  
4 records in the possession of any state or local police department, the bureau of criminal  
5 identification and the probation department, including, but not limited to, any fingerprints,  
6 photographs, physical measurements, or other records of identification. The terms "records" and  
7 "records of conviction, and/or probation" do not include the records and files of the department of  
8 attorney general which are not kept by the bureau of criminal identification in the ordinary course  
9 of the bureau's business.

10 **12-1.3-2. Motion for expungement.** -- (a) Any person who is a ~~first~~ qualified offender  
11 may file a motion for the expungement of all records and records of conviction for a felony or  
12 misdemeanor by filing a motion in the court in which the conviction took place, provided that no  
13 person who has been convicted of a crime of violence shall have his or her records and records of  
14 conviction expunged.

15 (b) Subject to subsection (a) of this section, a person may file a motion for the  
16 expungement of records relating to a misdemeanor conviction after five (5) years from the date of  
17 the completion of his or her sentence.

18 (c) Subject to subsection (a) of this section, a person may file a motion for the  
19 expungement of records relating to a felony conviction after ten (10) years from the date of the  
20 completion of his or her sentence.

21 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.** -- (a)  
22 Any person filing a motion for expungement of the records of his or her conviction pursuant to §  
23 12-1.3-2 shall give notice of the hearing date set by the court to the department of the attorney  
24 general and the police department which originally brought the charge against the person at least  
25 ten (10) days prior to that date.

26 (b) The court, after the hearing at which all relevant testimony and information shall be  
27 considered, may in its discretion order the expungement of the records of conviction of the person  
28 filing the motion if it finds:

29 (1) That in the five (5) years preceding the filing of the motion, if the conviction was for  
30 a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was  
31 for a felony, the petitioner has not been convicted nor arrested for ~~any felony or misdemeanor~~  
32 more than two (2) prior felonies or misdemeanors, there are no criminal proceedings pending  
33 against the person, and he or she has exhibited good moral character;

34 (2) That the petitioner's rehabilitation has been attained to the court's satisfaction and the

1 expungement of the records of his or her conviction is consistent with the public interest.

2 (c) If the court grants the motion, it shall, after payment by the petitioner of a one  
3 hundred dollar (\$100) fee to be paid to the court order all records and records of conviction  
4 relating to the conviction expunged and all index and other references to it deleted. A copy of the  
5 order of the court shall be sent to any law enforcement agency and other agency known by either  
6 the petitioner, the department of the attorney general, or the court to have possession of the  
7 records. Compliance with the order shall be according to the terms specified by the court.

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would make eligible for expungement persons with fewer than three (3) prior  
2 criminal convictions.

3           This act would take effect upon passage.

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