

2017 -- S 0426

LC000762

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senator Harold M. Metts

Date Introduced: March 02, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

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

3 **12-1.3-2. Motion for expungement.**

4 (a) Any person who is a first offender may file a motion for the expungement of all
5 records and records of conviction for a felony or misdemeanor by filing a motion in the court in
6 which the conviction took place; provided, that no person who has been convicted of a crime of
7 violence shall have his or her records and records of conviction expunged; and provided, that all
8 outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or any
9 other monetary obligations have been paid, unless such amounts are reduced or waived by order
10 of the court.

11 (b) Any person who has been convicted of more than one misdemeanor, but fewer than
12 six (6) misdemeanors, and has not been convicted of a felony may file a motion for the
13 expungement of any or all of those misdemeanors by filing a motion in the court in which the
14 convictions took place, provided that convictions for offenses under chapter 29 of title 12, §§31-
15 27-2 or 31-27-2.1 are not eligible for and may not be expunged.

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

19 ~~(c)~~(d) Subject to subsection (a), a person may file a motion for the expungement of

1 records relating to a felony conviction after ten (10) years from the date of the completion of his
2 or her sentence.

3 ~~(e)~~ Subject to § 12-19-19(c), and without regard to subsections (a) through (c) of this
4 section, a person may file a motion for the expungement of records relating to a deferred sentence
5 upon its completion, after which the court will hold a hearing on the motion.

6 (f) Subject to subsection (b) of this section, a person may file a motion for the
7 expungement of records relating to misdemeanor convictions after ten (10) years from the date of
8 the completion of their last sentence.

9 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.**

10 (a) Any person filing a motion for expungement of the records of his or her conviction
11 pursuant to § 12-1.3-2 shall give notice of the hearing date set by the court to the department of
12 the attorney general and the police department that originally brought the charge against the
13 person at least ten (10) days prior to that date.

14 (b) The court, after the hearing at which all relevant testimony and information shall be
15 considered, may, in its discretion, order the expungement of the records of conviction, but not
16 records of conviction of offenses under chapter 29 of title 12, §§31-27-2 or 31-27-2.1 if the
17 petitioner has been convicted of more than one misdemeanor, of the person filing the motion if it
18 finds:

19 (1) (i) That in the five (5) years preceding the filing of the motion, if the conviction was
20 for a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction
21 was for a felony, the petitioner has not been convicted nor arrested for any felony or
22 misdemeanor; there are no criminal proceedings pending against the person; that the person does
23 not owe any outstanding court-imposed or court-related fees, fines, costs, assessments, or
24 charges, unless such amounts are reduced or waived by order of the court, and he or she has
25 exhibited good moral character; ~~or~~

26 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that
27 the person has complied with all of the terms and conditions of the deferral agreement including,
28 but not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and
29 restitution to victims of crimes; there are no criminal proceedings pending against the person; and
30 he or she has established good moral character. Provided, that no person who has been convicted
31 of a crime of violence shall have their records relating to a deferred sentence expunged; or

32 (iii) That in the ten (10) years preceding the filing of the motion, if the convictions were
33 for multiple misdemeanors, the petitioner has not been convicted nor arrested for any felony or
34 misdemeanor, there are no criminal proceedings pending against the person, and they have

1 [exhibited good moral character; and](#)

2 (2) That the petitioner's rehabilitation has been attained to the court's satisfaction and the
3 expungement of the records of his or her conviction is consistent with the public interest.

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

11 (d) The defendant shall be advised at the hearing that any and all bail money relating to a
12 case that remains on deposit and is not claimed at the time of expungement shall be escheated to
13 the state's general treasury in accordance with chapter 12 of title 8.

14 SECTION 2. This act shall take effect upon passage and apply to all convictions imposed
15 before or after the effective date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

1 This act would make persons with up to six (6) misdemeanor convictions eligible for the
2 expungement of all records and records of convictions, provided that no person who has been
3 convicted of any felony shall have their records of conviction expunged and convictions for
4 offenses under chapter 29 of title 12, §§31-27-2 or 31-27-2.1 shall not be eligible for and may not
5 be expunged, by filing a motion after ten (10) years from the date of the completion of their last
6 sentence.

7 This act would take effect upon passage and would apply to all convictions imposed
8 before or after the effective date.

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