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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Knight, Filippi, Blazejewski, McEntee, and Craven

Date Introduced: January 10, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-19-18 of the General Laws in Chapter 12-19 entitled "Sentence  
2 and Execution" is hereby amended to read as follows:

3           **12-19-18. Termination of imprisonment on deferred sentence on failure of grand**  
4 **jury to indict -- Determinations of insufficient evidence lack of probable cause or exercise of**  
5 **prosecutorial discretion.**

6           (a) Whenever any person has been sentenced to imprisonment for violation of a deferred  
7 sentence by reason of the alleged commission of a felony and the grand jury has failed to return  
8 any indictment or an information has not been filed on the charge which was specifically alleged  
9 to have constituted the violation of the deferred sentence, the sentence to imprisonment for the  
10 alleged violation of the deferred sentence shall, on motion made to the court on behalf of the  
11 person so sentenced, be quashed, and imprisonment shall be immediately terminated, and the  
12 deferred sentence shall have same force and effect as if no sentence to imprisonment had been  
13 imposed.

14           (b) Whenever any person, after an evidentiary hearing, has been sentenced to  
15 imprisonment for violation of a suspended sentence or probationary period by reason of the  
16 alleged commission of a felony or misdemeanor said sentence of imprisonment shall, on a motion  
17 made to the court on behalf of the person so sentenced, be quashed, and imprisonment shall be  
18 terminated when any of the following occur on the charge which was specifically alleged to have  
19 constituted the violation:

1 (1) After trial person is found "not guilty" or a motion for judgment of acquittal or to  
2 dismiss is made and granted pursuant to Superior or District Court Rule of Criminal Procedure  
3 29;

4 (2) After hearing evidence, a "no true bill" is returned by the grand jury;

5 (3) After consideration by an assistant or special assistant designated by the attorney  
6 general, a "no information" based upon a lack of probable cause is returned;

7 (4) A motion to dismiss is made and granted pursuant to the Rhode Island general laws §  
8 12-12-1.7 and/or Superior Court Rule of Criminal Procedure 9.1; ~~or~~

9 (5) The charge fails to proceed in District or Superior Court under circumstances where  
10 the state is indicating a lack of probable cause, or circumstances where the state or its agents  
11 believe there is doubt about the culpability of the accused; or

12 (6) After consideration by an assistant or special assistant designated by the attorney  
13 general, the state or arresting police department, in their discretion, dismisses the charge(s).

14 (c) This section shall apply to all individuals sentenced to imprisonment for violation of a  
15 suspended sentence or probationary period by reason of the alleged commission of a felony or  
16 misdemeanor and shall not alter the ability of the court to revoke a suspended sentence or  
17 probationary period for an allegation of conduct that does not rise to the level of criminal  
18 conduct.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

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1           This act would require termination of imprisonment on a deferred sentence when, after  
2 consideration by an assistant or special assistant designated by the attorney general, the state or  
3 arresting police department, in their discretion, dismisses the charge(s).

4           This act would take effect upon passage.

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