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LC003588
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT

Introduced By: Representatives Almeida, Regunberg, Ajello, Williams, and Abney

Date Introduced: January 29, 2016

Referred To: House Judiciary

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

10 (b) Any person who has been convicted of more than one misdemeanor and no more than
11 six (6) misdemeanors, and has not been convicted of a felony, may file a motion for the
12 expungement of any of those misdemeanors in the court in which the convictions took place,
13 provided that convictions for offenses under chapter 29 of title 12, §§31-27-2, or 31-27-2.1 are
14 not eligible for, and may not be expunged pursuant to this subsection.

15 ~~(b)~~(c) 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 ~~(e)~~(d) 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

1 completion of his or her sentence.

2 (e) Subject to subsection (b) of this section, a person may file a motion for the
3 expungement of his or her records relating to misdemeanor convictions after ten (10) years from
4 the date of the completion of his or her last sentence.

5 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.** -- (a)

6 Any person filing a motion for expungement of the records of his or her conviction pursuant to §
7 12-1.3-2 shall give notice of the hearing date set by the court to the department of the attorney
8 general and the police department that originally brought the charge against the person at least ten
9 (10) days prior to that date.

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

13 (1) ~~That~~ In cases of expungement sought pursuant to §12-1.3-2(a), in the five (5) years
14 preceding the filing of the motion, if the conviction was for a misdemeanor, or in the ten (10)
15 years preceding the filing of the motion if the conviction was for a felony, the petitioner has not
16 been convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings
17 pending against the person; that the person does not owe any outstanding court-imposed or court-
18 related fees, fines, costs, assessments, or charges, unless such amounts are reduced or waived by
19 order of the court, and he or she has exhibited good moral character;

20 (2) In cases of expungement sought pursuant to §12-1.3-2(b), and it has been ten (10)
21 years from the date of the completion of their last sentence, and in the interim the petitioner has
22 not been convicted nor arrested for any felony or misdemeanor, there are no criminal proceedings
23 pending against a person, and they have exhibited good moral character.

24 ~~(2)~~(3) That the petitioner's rehabilitation has been attained to the court's satisfaction and
25 the expungement of the records of his or her conviction is consistent with the public interest.

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

33 (d) The defendant shall be advised at the hearing that any and all bail money relating to a
34 case that remains on deposit and is not claimed at the time of expungement shall be escheated to

1 the state's general treasury in accordance with chapter 12 of title 8.

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

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

1 This act would allow the expungement of up to six (6) misdemeanors, provided the
2 defendant has no felony convictions, ten (10) years after the last sentence has expired and the
3 defendant has had no arrests or convictions within that ten (10) year time period. This act would
4 not apply to convictions for driving while intoxicated, refusal to submit to a chemical test (those
5 charges as criminal offenses), or to any domestic violence offense.

6 This act would take effect upon passage.

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