

2016 -- H 7685

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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 OF CRIMINAL RECORDS

Introduced By: Representatives Solomon, Coughlin, Williams, Almeida, and Tobon

Date Introduced: February 24, 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) Subject to subsection (a) of this section, a person may file a motion for the
11 expungement of records relating to a misdemeanor conviction after five (5) years from the date of
12 the completion of his or her sentence.

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

16 (d) Subject to subsection (a) of this section, any conviction for driving on a suspended or
17 expired license or driving without a license shall not be a basis for denying a person who is
18 otherwise eligible, from having their criminal record expunged; provided, however, if such
19 person's license was suspended pursuant to a felony or misdemeanor conviction for offenses

1 [under chapter 27 of title 31, or was suspended pursuant to the provisions of §31-11-18.1, then](#)
2 [such suspension may be considered by the court and shall be a basis for denying a motion for](#)
3 [expungement.](#)

4 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting. --** (a)

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

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

12 (1) That in the five (5) years preceding the filing of the motion, if the conviction was for
13 a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was
14 for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor
15 [with the exception of any offense constituting driving on a suspended license or without a license;](#)
16 [provided, however, if such person's license was suspended or expired pursuant to a felony or](#)
17 [misdemeanor conviction for offenses under chapter 27 of title 31, or was suspended pursuant to](#)
18 [the provisions of §31-11-18.1, then such suspension may be considered by the court and shall be](#)
19 [a basis for denying a motion for expungement;](#) there are no criminal proceedings pending against
20 the person; that the person does not owe any outstanding court-imposed or court-related fees,
21 fines, costs, assessments, or charges, unless such amounts are reduced or waived by order of the
22 court, and he or she has exhibited good moral character;

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

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

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

1 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 OF CRIMINAL RECORDS

1 This act would make those persons with certain convictions for driving on a suspended or
2 expired license or driving without a license eligible for expungement of other criminal offenses,
3 provided that they were otherwise eligible under the law.

4 This act would take effect upon passage.

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