

2021 -- H 5982

LC000874

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL PROCEDURE-IDENTIFICATION AND APPREHENSION OF  
CRIMINALS

Introduced By: Representatives Felix, Kazarian, Morales, Henries, Giraldo, Batista,  
Lombardi, Caldwell, Barros, and Knight

Date Introduced: February 26, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

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

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

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

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

18 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that the

1 person has complied with all of the terms and conditions of the deferral agreement including, but  
2 not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and  
3 restitution to victims of crimes; there are no criminal proceedings pending against the person; and  
4 he or she has established good moral character. Provided, that no person who has been convicted  
5 of a crime of violence shall have their records relating to a deferred sentence expunged; or

6 (iii) Subject only to §§ 12-1.3-2(b) and (f), that in the ten (10) years preceding the filing of  
7 the motion, if the convictions were for multiple misdemeanors, the petitioner has not been  
8 convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings pending  
9 against the person; and they have exhibited good moral character; and, provided that convictions  
10 for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible and may not be  
11 expunged under this subsection.

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

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

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

23 Within five (5) days of the granting of a motion to expunge pursuant to this section, the  
24 state court administrator shall notify the office of the general treasurer and/or the registry of the  
25 courts via electronic means, that the case has been expunged and that all bail money posted relative  
26 to that offense and case shall be returned to the defendant or the surety who posted the bail.

27 (e) In cases of expungement sought pursuant to § 12-1.3-2(g), the court shall, after a hearing  
28 at which it finds that all conditions of the original criminal sentence have been completed, and any  
29 and all fines, fees, and costs related to the conviction have been paid in full, order the expungement  
30 without cost to the petitioner. At the hearing, the court may require the petitioner to demonstrate  
31 that the prior criminal conviction would qualify as a decriminalized offense under current law. The  
32 demonstration may include, but is not limited to, an affidavit signed by the petitioner attesting to  
33 the fact that the prior conviction qualifies as a decriminalized offense under current Rhode Island  
34 law.

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-IDENTIFICATION AND APPREHENSION OF  
CRIMINALS

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1           This act would repeal the requirement that a person seeking expungement of a criminal  
2 case pay a one hundred dollar fee to the court and require that the court administrator advise the  
3 general treasurer and/or the registry of the court that the case has been expunged and order that any  
4 bail money on deposit be returned to the defendant or surety.

5           This act would take effect upon passage.

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