

2023 -- H 5115

LC000169

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representatives J Lombardi, Hull, Ajello, McGaw, Kislak, Felix, and  
Tanzi

Date Introduced: January 12, 2023

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

10 (b) Notwithstanding § 12-1.3-1(3) ("first offender"), any person who has been convicted  
11 of more than one misdemeanor, but fewer than six (6) misdemeanors, and has not been convicted  
12 of a felony may file a motion for the expungement of any or all of those misdemeanors by filing a  
13 motion in the court in which the convictions took place; provided that convictions for offenses  
14 under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible for and may not be expunged  
15 under this subsection.

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

19 (d) Any person who has been convicted of more than one felony, and who has not been

1 convicted of a felony which is considered a crime of violence, may file a motion for the  
2 expungement of any or all of those felonies in the court in which the convictions took place;  
3 provided that multiple convictions for offenses under chapter 29 of title 12 are not eligible for and  
4 may not be expunged.

5 ~~(d)~~(e) Subject to subsection (a), a person may file a motion for the expungement of records  
6 relating to a felony conviction after ten (10) years from the date of the completion of his or her  
7 sentence.

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

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

14 ~~(g)~~(h) Notwithstanding the provisions of subsections (a) through (f) of this section, a person  
15 may file a motion for the expungement of records related to an offense that has been decriminalized  
16 subsequent to the date of their conviction, after which the court will hold a hearing on the motion  
17 in the court in which the original conviction took place.

18 (i) Subject to subsection (d) of this section, a person may file a motion for the expungement  
19 of records relating to felony convictions after ten (10) years from the date of the completion of their  
20 last sentence.

21 **12-1.3-3. Motion for expungement — Notice — Hearing — Criteria for granting.**

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

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

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

1 character;

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

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

14 (iv) That in the ten (10) years preceding the filing of the motion, if the convictions were  
15 for multiple felonies, the petitioner has not been convicted nor arrested for any felony or  
16 misdemeanor, there are no criminal proceedings pending against the person, and they have  
17 exhibited good moral character.

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

20 (c) If the court grants the motion, it shall order all records and records of conviction relating  
21 to the conviction expunged and all index and other references to it removed from public inspection.  
22 A copy of the order of the court shall be sent to any law enforcement agency and other agency  
23 known by either the petitioner, the department of the attorney general, or the court to have  
24 possession of the records. Compliance with the order shall be according to the terms specified by  
25 the court.

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

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

1 the fact that the prior conviction qualifies as a decriminalized offense under current Rhode Island  
2 law.

3 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 -- EXPUNGEMENT OF CRIMINAL RECORDS

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1           This act would allow those persons with multiple felony convictions to file a motion for  
2 expungement of all records and records of convictions; provided that no person who has been  
3 convicted of any felony which is considered a crime of violence shall have their records of  
4 conviction expunged and convictions for offenses under chapter 29 of title 12 shall not be eligible  
5 for and may not be expunged. Motions may be brought after ten (10) years from the date of the  
6 completion of their last sentence.

7           This act would take effect upon passage.

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