

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- IDENTIFICATION AND APPREHENSION OF CRIMINALS

Introduced By: Representatives Felix, Batista, Kislak, Giraldo, Henries, Morales, McNamara, Kazarian, Casimiro, and J. Lombardi

Date Introduced: February 17, 2023

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-1-12.1 of the General Laws in Chapter 12-1 entitled
2 "Identification and Apprehension of Criminals" is hereby amended to read as follows:

3 **12-1-12.1. Sealing of records of persons acquitted or otherwise exonerated by**
4 **operation of law or by motion.**

5 (a) By operation of law, the court shall automatically seal the records of any criminal case
6 that was dismissed pursuant to the district court rule of criminal procedure 48(a), including all
7 records of the division of criminal identification established by § 12-1-4 without the requirement
8 of filing a motion under the following circumstances:

9 (1) Cases [or individual counts of a criminal complaint](#) dismissed pursuant to the district
10 court rule of criminal procedure 48(a) on or after January 1, 2023, shall be automatically sealed
11 ninety (90) days after the dismissal; or

12 (2) Cases [or individual counts of a criminal complaint](#) dismissed pursuant to the district
13 court rule of criminal procedure 48(a) prior to January 1, 2023, shall be sealed administratively by
14 the court clerk at the request of the defendant and any sealing order of the district court entered as
15 a result shall be sent electronically by the clerk of the court to the bureau of criminal identification
16 established by § 12-1-4 within five (5) days of the entry of the order and shall be carried out within
17 ninety (90) days of the receipt of the order.

18 (b) Any person who is acquitted or otherwise exonerated of all counts in a criminal case,

1 including, but not limited to, dismissals not described in subsection (a) of this section or filing of a
2 no true bill or no information, may file a motion for the sealing of his or her court records in the
3 case.

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

8 (2) If the court, after the hearing at which all relevant testimony and information shall be
9 considered, finds that the person is entitled to the sealing of the records, it shall order the sealing
10 of the court records of the person in that case.

11 (3) The clerk of the court shall, within forty-five (45) days of the order of the court granting
12 the motion, place under seal the court records in the case in which the acquittal, dismissal, no true
13 bill, no information, or other exoneration has been entered.

14 (c) Notwithstanding any other provision of this section, in all cases involving a filing
15 subsequent to a plea of not guilty, guilty, or nolo contendere to a charge of a crime involving
16 domestic violence, the court having jurisdiction over the case shall retain the records of the case
17 for a period of three (3) years from the date of filing. The records shall not be expunged or sealed
18 for a period of three (3) years from the date of the filing.

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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CRIMINALS

1 This act would mandate that the clerk of the district court automatically also seal individual
2 counts of criminal complaints upon dismissal pursuant to rule 48(a) of the rules of criminal
3 procedure for district court.

4 This act would take effect upon passage.

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