

**2024 -- H 7053 SUBSTITUTE A**

LC003370/SUB A/2

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2024**

**A N A C T**

**RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS**

Introduced By: Representatives Knight, Speakman, Dawson, Batista, Craven, McEntee, Ajello, Felix, Cruz, and Caldwell

Date Introduced: January 05, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 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) Notwithstanding § 12-1.3-1(3) ("first offender"), any person who has been convicted  
17 solely of one felony and one misdemeanor may file a motion for the expungement of the felony by  
18 filing a motion in the court in which the convictions took place; provided that convictions for  
19 offenses under chapter 47 of title 11; chapter 67.1 of title 11; chapter 29 of title 12; or offenses

1 [under §§ 11-5-2; 11-5-4; 11-5-10.1; 11-5-10.2; 11-5-10.4; 11-5-14.1; 11-5-14.2; 11-9-5; 11-9-5.3;](#)  
2 [11-9-5.4; 31-26-1\(d\); 31-27-1; 31-27-2.2](#) or any crime of violence as defined in the [general laws](#)  
3 [shall not be eligible for and may not be expunged under this subsection.](#)

4 [\(1\) Eligibility to be heard on a motion to expunge under this subsection shall only exist if](#)  
5 [the movant has waited fifteen \(15\) years from the date of the completion of the movant's last](#)  
6 [sentence, and has complied with all requirements for filing a motion to expunge.](#)

7 ~~(d)~~ Subject to subsection (a), a person may file a motion for the expungement of records  
8 relating to a misdemeanor conviction after five (5) years from the date of the completion of his or  
9 her sentence.

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

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

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

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

23 **12-1.3-3. Motion for expungement — Notice — Hearing — Criteria for granting.**

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

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

31 (1)(i) That in the five (5) years preceding the filing of the motion, if the conviction was for  
32 a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction was for  
33 a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor; there  
34 are no criminal proceedings pending against the person; that the person does not owe any

1 outstanding court-imposed or court-related fees, fines, costs, assessments, or charges, unless such  
2 amounts are reduced or waived by order of the court; and he or she has exhibited good moral  
3 character;

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

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

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

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

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

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

A N A C T

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1           This bill would allow under certain circumstances the expungement of one felony when  
2 the defendant has one misdemeanor conviction. Crimes of violence and other victim related  
3 felonies are excluded from expungement. Additionally, the defendant must wait 15 years prior to  
4 filing a motion to expunge.

5           This act would take effect upon passage.

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