

2020 -- H 7142

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representatives Williams, Craven, Blazejewski, Knight, and Alzate

Date Introduced: January 16, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-1.3-2. Motion for expungement.**

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

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

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

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

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

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

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

14 (h)(1) Notwithstanding the provisions of subsections (a) through (f) of this section, but
15 consistent with subsection (g) of this section, any person who has been convicted of or pled nolo
16 contendere or guilty to possession of marijuana pursuant to § 21-28-4.01(c)(ii), including those
17 persons so convicted prior to 2013, shall be eligible for automatic expungement of all criminal
18 history records of an arrest, or a charge not initiated by arrest, if:

19 (i) One year or more has elapsed since the date of the arrest or law enforcement
20 interaction documented in the records; and

21 (ii) No criminal charges were filed relating to the arrest or law enforcement interaction or
22 criminal charges were filed and subsequently dismissed or vacated or the arrestee was acquitted;

23 (2) If the law enforcement agency is unable to verify satisfaction of subsection (h)(1)(ii)
24 of this section, records that satisfy subsection (h)(1)(i) of this section shall be automatically
25 expunged;

26 (3) Records shall be expunged pursuant to the procedures set forth in § 12-1.3-2 under the
27 following timelines:

28 (i) Records created prior to the effective date of this act, but on or after January 1, 2014,
29 shall be automatically expunged prior to January 1, 2022;

30 (ii) Records created prior to January 1, 2014, but on or after January 1, 2001, shall be
31 automatically expunged prior to January 1, 2024;

32 (iii) Records created prior to January 1, 2001, shall be automatically expunged prior to
33 January 1, 2026;

34 (4) Nothing in this section shall be construed to restrict or modify an individual's right to

1 have that individual's records expunged except as otherwise may be provided in this chapter, or
2 diminish or abrogate any rights or remedies otherwise available to the individual;

3 (5) The Rhode Island attorney general in consultation with the Rhode Island state police
4 and the municipal police departments of the state is hereby authorized to promulgate whatever
5 rules and regulations necessary to carry out the provisions of this section.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide those persons who have previously been convicted of marijuana
2 possession, which would now constitute a decriminalized offense, to have their records for those
3 convictions automatically expunged regardless of their criminal history.

4 This act would take effect upon passage.

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