

2016 -- S 2712

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senators Metts, Ciccone, Archambault, Jabour, and Pichardo

Date Introduced: March 08, 2016

Referred To: Senate Judiciary

(Attorney General)

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  
2 entitled "Expungement of Criminal Records" are hereby amended to read as follows:

3 **12-1.3-2. Motion for expungement.** -- (a) Any person who is a first offender may file a  
4 motion for the expungement of all records and records of conviction for a felony or misdemeanor  
5 by filing a motion in the court in which the conviction took place; provided, that no person who  
6 has been convicted of a crime of violence shall have his or her records and records of conviction  
7 expunged; and provided, that all outstanding court-imposed or court-related fees, fines, costs,  
8 assessments, charges, and/or any other monetary obligations have been paid, unless such amounts  
9 are reduced or waived by order of the court.

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

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

18 ~~(c)~~(d) Subject to subsection (a) of this section, a person may file a motion for the  
19 expungement of records relating to a felony conviction after ten (10) years from the date of the

1 completion of his or her sentence.

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

5 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting. --** (a)

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

10 (b) The court, after the hearing at which all relevant testimony and information shall be  
11 considered, may in its discretion order the expungement of the records of conviction excluding  
12 records of conviction of offenses under chapter 29 of title 12, §31-27-2, or §31-27-2.1, if the  
13 petitioner has been convicted of more than one misdemeanor, of the person filing the motion if it  
14 finds:

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

22 (2) That in the ten (10) years preceding the filing of the motion, if the convictions were  
23 for multiple misdemeanors, the petitioner has not been convicted nor arrested for any felony or  
24 misdemeanor, there are no criminal proceedings pending against the person, and they have  
25 exhibited good moral character; and

26 ~~(2)~~(3) That the petitioner's rehabilitation has been attained to the court's satisfaction and  
27 the expungement of the records of his or her conviction is consistent with the public interest.

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

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

4           SECTION 2. This act shall take effect upon passage and shall apply to all convictions  
5 imposed before or after the effective date.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would allow those persons with less than six (6) misdemeanor convictions to file  
2 a motion for the expungement of all records and records of convictions, provided that no person  
3 who has been convicted of any felony shall have their records of misdemeanor conviction  
4 expunged. Convictions for offenses of domestic violence, driving under the influence of liquor or  
5 drugs would not be eligible to be expunged. Such motion may be sought after ten (10) years from  
6 the date of the completion of their last sentence.

7           This act would take effect upon passage and would apply to all convictions imposed  
8 before or after the effective date.

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