

2022 -- S 2943 SUBSTITUTE A

LC005863/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL PROCEDURE -- IDENTIFICATION AND APPREHENSION OF CRIMINALS

Introduced By: Senators McCaffrey, and Archambault

Date Introduced: May 17, 2022

Referred To: Senate 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. Motion for sealing of records of persons acquitted or otherwise exonerated~~
4 **Sealing of records of persons acquitted or otherwise exonerated or by operation of law or by**
5 **motion.**

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

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

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

17 (b) Any person who is acquitted or otherwise exonerated of all counts in a criminal case,
18 including, but not limited to, ~~dismissal~~ dismissals not described in subsection (a) of this section or

1 filing of a no true bill or no information, may file a motion for the sealing of his or her court records
2 in the case.

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

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

10 ~~(4)~~(3) The clerk of the court shall, within forty-five (45) days of the order of the court
11 granting the motion, place under seal the court records in the case in which the acquittal, dismissal,
12 no true bill, no information, or other exoneration has been entered.

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

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

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

=====
LC005863/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- IDENTIFICATION AND APPREHENSION OF
CRIMINALS

1 This act would provide for the sealing of court records without motion and by operation of
2 law ninety (90) days after dismissal under rule of criminal procedure 48(a), of all counts in a
3 criminal case on or after January 1, 2023. Prior to January 1, 2023, court records in those cases
4 would be sealed administratively by the court clerk at the request of the defendant.

5 This act would take effect upon passage.

=====
LC005863/SUB A
=====