

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senators Euer, F. Lombardi, LaMountain, DiMario, Miller, Cano,
Sosnowski, Mack, Zurier, and Lawson

Date Introduced: March 07, 2023

Referred To: Senate Judiciary

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

3 **12-1.3-2. ~~Motion for expungement~~ Motion for expungement or expungement by**
4 **operation by law.**

5 (a) Any person who ~~is a first offender may file a motion for the expungement~~ meets the
6 following criteria may be eligible for expungement of all records and records of conviction ~~for a~~
7 ~~felony or misdemeanor by filing a motion~~ in the court in which the conviction took place;

8 (1) For a felony, by motion; provided, that, ~~the~~ no person is a first offender who has not
9 been convicted of a crime of violence ~~shall have his or her records and records of conviction~~
10 ~~expunged;~~ and ~~provided;~~ that all outstanding court-imposed or court-related fees, fines, costs,
11 assessments, charges, and/or any other monetary obligations have been paid, unless such amounts
12 are reduced or waived by order of the court.

13 (2) For a misdemeanor, automatically and by operation of law; provided that, the person is
14 a first offender who has not been convicted of a crime of violence. Any outstanding court-imposed
15 or court-related fees, fines, costs, assessments, charges and/or any other monetary obligations shall
16 be waived.

17 (b) Notwithstanding § 12-1.3-1(3) ("first offender"), any person who has been convicted
18 of more than one misdemeanor, but fewer than six (6) misdemeanors, and has not been convicted
19 of a felony may file a motion for the expungement of any or all of those misdemeanors by filing a

1 motion in the court in which the convictions took place; provided that convictions for offenses
2 under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible for and may not be expunged
3 under this subsection.

4 (c) Subject to subsection (a) ~~of this section, a person may file a motion for~~, the automatic
5 expungement of records relating to a misdemeanor conviction ~~after~~ may be ordered by the court
6 without motion and by operation of law five (5) years from the date of the completion of his or her
7 sentence.

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

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

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

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

21 ~~**12-1.3-3. Motion for expungement — Notice — Hearing — Criteria for granting**~~
22 ~~**Motion for expungement or expungement by operation of law -- Notice -- Hearing -- Criteria**~~
23 ~~**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) An expungement of the records of conviction may be ordered by the court without
29 motion and by operation of law five (5) years from the date of completion of a person's sentence,
30 if the conviction was for a misdemeanor; provided that, there are no criminal proceedings pending
31 against the person.

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

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

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

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

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

22 ~~(e)~~(d) If the court grants the motion pursuant to subsections (c)(1)(i) through (c)(1)(iii) of
23 this section, or if the court orders expungement by operation of law pursuant to subsection (b) of
24 this section, it shall order all records and records of conviction relating to the conviction expunged
25 and all index and other references to it removed from public inspection. A copy of the order of the
26 court shall be sent to any law enforcement agency and other agency known by either the petitioner,
27 the department of the attorney general, or the court to have possession of the records. Compliance
28 with the order shall be according to the terms specified by the court.

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

32 ~~(e)~~(f) In cases of expungement sought pursuant to § 12-1.3-2(g), the court shall, after a
33 hearing at which it finds that all conditions of the original criminal sentence have been completed,
34 and any and all fines, fees, and costs related to the conviction have been paid in full, order the

1 expungement without cost to the petitioner. At the hearing, the court may require the petitioner to
2 demonstrate that the prior criminal conviction would qualify as a decriminalized offense under
3 current law. The demonstration may include, but is not limited to, an affidavit signed by the
4 petitioner attesting to the fact that the prior conviction qualifies as a decriminalized offense under
5 current Rhode Island law.

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

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LC002128
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

1 This act would require automatic expungement of records and records of conviction, if the
2 conviction was for a non-violent misdemeanor, five (5) years after completion of the sentence.

3 This act would take effect upon passage.

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