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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representative Patricia A. Serpa

Date Introduced: February 27, 2026

Referred To: House 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 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) Subject to subsection (a), a person may file a motion for the expungement of records
17 relating to a misdemeanor conviction after five (5) years from the date of the completion of his or
18 her sentence, except for any violation of § 31-27-2 or § 31-27-2.1, which a person may move to
19 expunge only after ten (10) years from the date of the completion of their 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 expungement
8 of records relating to misdemeanor convictions after ten (10) years from the date of the completion
9 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 decriminalized
12 subsequent to the date of their conviction, after which the court will hold a hearing on the motion
13 in the court in which the original conviction took place.

14 **12-1.3-3. Motion for expungement — Notice — Hearing — Criteria for granting.**

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

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

22 (1)(i) That in the five (5) years preceding the filing of the motion, if the conviction was for
23 a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction was for
24 a felony [or for any violation of § 31-27-2 or § 31-27-2.1](#), the petitioner has not been convicted nor
25 arrested for any felony or misdemeanor; there are no criminal proceedings pending against the
26 person; that the person does not owe any outstanding court-imposed or court-related fees, fines,
27 costs, assessments, or charges, unless such amounts are reduced or waived by order of the court;
28 and he or she has exhibited good moral character;

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

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

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

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

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

18 (e) In cases of expungement sought pursuant to § 12-1.3-2(g), the court shall, after a hearing
19 at which it finds that all conditions of the original criminal sentence have been completed, and any
20 and all fines, fees, and costs related to the conviction have been paid in full, order the expungement
21 without cost to the petitioner. At the hearing, the court may require the petitioner to demonstrate
22 that the prior criminal conviction would qualify as a decriminalized offense under current law. The
23 demonstration may include, but is not limited to, an affidavit signed by the petitioner attesting to
24 the fact that the prior conviction qualifies as a decriminalized offense under current Rhode Island
25 law.

26 SECTION 2. Section 31-27-2.1 of the General Laws in Chapter 31-27 entitled "Motor
27 Vehicle Offenses" is hereby amended to read as follows:

28 **31-27-2.1. Refusal to submit to chemical test.**

29 (a) Any person who operates a motor vehicle within this state shall be deemed to have
30 given his or her consent to chemical tests of his or her breath, blood, saliva and/or urine for the
31 purpose of determining the chemical content of his or her body fluids or breath. No more than two
32 (2) complete tests, one for the presence of intoxicating liquor and one for the presence of toluene
33 or any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a
34 law enforcement officer having reasonable grounds to believe the person to have been driving a

1 motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any
2 controlled substance, as defined in chapter 28 of title 21, or any combination of these. The director
3 of the department of health is empowered to make and file, with the secretary of state, regulations
4 that prescribe the techniques and methods of chemical analysis of the person's body fluids or breath
5 and the qualifications and certification of individuals authorized to administer the testing and
6 analysis.

7 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the
8 person may file an affidavit with the division of motor vehicles stating the reasons why he or she
9 cannot be required to take blood tests and a notation to this effect shall be made on his or her
10 license. If that person is asked to submit to chemical tests as provided under this chapter, the person
11 shall only be required to submit to chemical tests of his or her breath, saliva or urine. When a person
12 is requested to submit to blood tests, only a physician or registered nurse, or a medical technician
13 certified under regulations promulgated by the director of the department of health, may withdraw
14 blood for the purpose of determining the alcoholic content in it. This limitation shall not apply to
15 the taking of breath, saliva or urine specimens. The person tested shall be permitted to have a
16 physician of his or her own choosing, and at his or her own expense, administer chemical tests of
17 his or her breath, blood, saliva and/or urine in addition to the tests administered at the direction of
18 a law enforcement officer. If a person, having been placed under arrest, refuses upon the request of
19 a law enforcement officer to submit to the tests, as provided in § 31-27-2, none shall be given.

20 (1) At the initial traffic tribunal appearance, the magistrate shall review the incident, action,
21 and/or arrest reports submitted by the law enforcement officer to determine if there exists
22 reasonable grounds to believe that the person had been driving a motor vehicle while under the
23 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of
24 title 21, or any combination thereof. The magistrate shall also determine if the person had been
25 informed ~~of the penalties incurred as a result of failing to submit to a chemical test as provided in~~
26 ~~this section and that the person had been informed~~ of the implied consent notice contained in
27 subsection (c)(10) of this section. For the purpose of this subsection only, "driving a motor vehicle
28 while under the influence of any controlled substance as defined in chapter 28 of title 21" shall be
29 indicated by the presence or aroma of a controlled substance on or about the person or vehicle of
30 the individual refusing the chemical test or other reliable indicia or articulable conditions that the
31 person was impaired due to their intake of a controlled substance.

32 (2) If the magistrate determines that subsection (b)(1) of this section has been satisfied they
33 shall promptly order that the person's operator's license or privilege to operate a motor vehicle in
34 this state be immediately suspended. Said suspension shall be subject to the hardship provisions

1 enumerated in § 31-27-2.8.

2 (c) A traffic tribunal judge or magistrate, or a district court judge or magistrate, pursuant
3 to the terms of subsection (d) of this section, shall order as follows:

4 (1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to
5 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of
6 public community restitution. The person's driving license in this state shall be suspended for a
7 period of six (6) months to one year. The traffic tribunal judge or magistrate shall require attendance
8 at a special course on driving while intoxicated or under the influence of a controlled substance
9 and/or alcohol or drug treatment for the individual. The traffic tribunal judge or magistrate may
10 prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock
11 system and/or blood and urine testing as provided in § 31-27-2.8.

12 (2) Every person convicted of a second violation within a ten-year (10) period, except with
13 respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall be
14 imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred dollars
15 (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of public
16 community restitution; and the person's driving license in this state shall be suspended for a period
17 of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug treatment
18 for the individual. The sentencing judge or magistrate shall prohibit that person from operating a
19 motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing
20 as provided in § 31-27-2.8.

21 (3) Every person convicted for a third or subsequent violation within a ten-year (10) period,
22 except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor;
23 and shall be imprisoned for not more than one year; fined eight hundred dollars (\$800) to one
24 thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of public community
25 restitution; and the person's operator's license in this state shall be suspended for a period of two
26 (2) years to five (5) years. The sentencing judge or magistrate shall prohibit that person from
27 operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and
28 urine testing as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or drug
29 treatment for the individual. Provided, that prior to the reinstatement of a license to a person charged
30 with a third or subsequent violation within a three-year (3) period, a hearing shall be held before a
31 judge or magistrate. At the hearing, the judge or magistrate shall review the person's driving record,
32 his or her employment history, family background, and any other pertinent factors that would
33 indicate that the person has demonstrated behavior that warrants the reinstatement of his or her
34 license.

1 (4) For a second violation within a ten-year (10) period with respect to a case of a refusal
2 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars
3 (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community
4 restitution; and the person's driving license in this state shall be suspended for a period of two (2)
5 years. The judicial officer shall require alcohol and/or drug treatment for the individual. The
6 sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not
7 equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect
8 to refusal to submit to a chemical blood test shall be a civil offense.

9 (5) For a third or subsequent violation within a ten-year (10) period with respect to a case
10 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one
11 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of public
12 community restitution; and the person's driving license in this state shall be suspended for a period
13 of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from operating
14 a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.
15 The judicial officer shall require alcohol and/or drug treatment for the individual. Such a violation
16 with respect to refusal to submit to a chemical test of blood shall be a civil offense. Provided, that
17 prior to the reinstatement of a license to a person charged with a third or subsequent violation within
18 a three-year (3) period, a hearing shall be held before a judicial officer. At the hearing, the judicial
19 officer shall review the person's driving record, his or her employment history, family background,
20 and any other pertinent factors that would indicate that the person has demonstrated behavior that
21 warrants the reinstatement of their license.

22 (6) For purposes of determining the period of license suspension, a prior violation shall
23 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.

24 (7) In addition to any other fines, a highway safety assessment of five hundred dollars
25 (\$500) shall be paid by any person found in violation of this section, the assessment to be deposited
26 into the general fund. The assessment provided for by this subsection shall be collected from a
27 violator before any other fines authorized by this section.

28 (8) In addition to any other fines and highway safety assessments, a two-hundred-dollar
29 (\$200) assessment shall be paid by any person found in violation of this section to support the
30 department of health's chemical testing programs outlined in §§ 31-27-2(f) and 31-27-2(g), that
31 shall be deposited as general revenues, not restricted receipts.

32 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on
33 driving while intoxicated or under the influence of a controlled substance, or public community
34 restitution provided for under this section can be suspended.

1 (10) Implied consent notice for persons eighteen (18) years of age or older: “Rhode Island
2 law requires you to submit to a chemical test of your blood, breath, saliva, or urine for the purpose
3 of determining the chemical content of your body fluids or breath. If you refuse this testing, certain
4 penalties can be imposed and include the following: for a first offense, your Rhode Island driver’s
5 license or privilege to operate a motor vehicle in this state can be suspended for six (6) months to
6 one year or modified to permit operation in connection with an ignition interlock device and/or
7 blood and urine testing for a period specified by law; a fine from two hundred dollars (\$200) to five
8 hundred dollars (\$500) can be imposed; and you can be ordered to perform ten (10) to sixty (60)
9 hours of community service and attend a special course on driving while intoxicated or under the
10 influence of a controlled substance and/or alcohol or drug treatment. If you have had one or more
11 previous offenses within the past ten (10) years, your refusal to submit to a chemical test of breath
12 or urine at this time can have criminal penalties, including incarceration up to six (6) months for a
13 second offense and up to one year for a third or subsequent offense, and can carry increased license
14 suspension or ignition interlock and/or blood and urine testing periods, fines, and community
15 service. All violators shall pay a five hundred dollar (\$500) highway safety assessment fee, a two
16 hundred dollar (\$200) department of health chemical testing programs assessment fee, and a license
17 reinstatement fee. Refusal to submit to a chemical test of blood shall not subject you to criminal
18 penalties for the refusal itself, but if you have one or more previous offenses other civil penalties
19 may increase. You have the right to be examined at your own expense by a physician selected by
20 you. If you submit to a chemical test at this time, you have the right to have an additional chemical
21 test performed at your own expense. You will be afforded a reasonable opportunity to exercise
22 these rights. Access to a telephone will be made available for you to make those arrangements. You
23 may now use a telephone.”

24 Use of this implied consent notice shall serve as evidence that a person’s consent to a
25 chemical test is valid in a prosecution involving driving under the influence of liquor, controlled
26 substances, and/or drugs.

27 (d) Upon suspending or refusing to issue a license or permit as provided in subsection (a),
28 the traffic tribunal or district court shall immediately notify the person involved in writing, and
29 upon his or her request, within fifteen (15) days, afford the person an opportunity for a hearing as
30 early as practical upon receipt of a request in writing. Upon a hearing, the judge may administer
31 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books
32 and papers. If the judge finds after the hearing that:

33 (1) The law enforcement officer making the sworn report had reasonable grounds to believe
34 that the arrested person had been driving a motor vehicle within this state while under the influence

1 of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
2 any combination of these;

3 (2) The person, while under arrest, refused to submit to the tests upon the request of a law
4 enforcement officer;

5 (3) The person had been informed of his or her rights in accordance with § 31-27-3; and

6 (4) The person had been informed of the penalties contained in the implied consent notice
7 set forth in subsection (c)(10) of this section, the judge shall sustain the violation. The judge shall
8 then impose the penalties set forth in subsection (c) of this section. Action by the judge must be
9 taken within seven (7) days after the hearing or it shall be presumed that the judge has refused to
10 issue his or her order of suspension.

11 (e) For the purposes of this section, any test of a sample of blood, breath, or urine for the
12 presence of alcohol that relies, in whole or in part, upon the principle of infrared light absorption is
13 considered a chemical test.

14 (f) If any provision of this section, or the application of any provision, shall, for any reason,
15 be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the section,
16 but shall be confined in this effect to the provisions or application directly involved in the
17 controversy giving rise to the judgment.

18 SECTION 3. Section 31-41.1-10 of the General Laws in Chapter 31-41.1 entitled
19 "Adjudication of Traffic Offenses" is hereby amended to read as follows:

20 **31-41.1-10. Expungement.**

21 All violations within this title which are in the jurisdiction of the traffic tribunal or of a
22 municipal court shall by operation of law, after three (3) years, following adjudication of the
23 violation and after expiration of any mandatory state or federal record-retention period, be
24 expunged from the records of the traffic tribunal or the municipal court and from the records of the
25 division of motor vehicles, except for those offenses related to alcohol as provided in § 31-27-2.1,
26 which shall be expunged after ~~five (5)~~ ten (10) years. These expungements shall be in addition to
27 and not in place of any expungement provided for by chapter 1.3 of title 12.

28 SECTION 4. This act shall take effect upon passage.

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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 amend existing expungement laws to be consistent with the new 10-year
- 2 lookback period required for DUI charges.
- 3 This act would take effect upon passage.

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