

2012 -- H 7738

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representatives McNamara, Bennett, and Hull

Date Introduced: February 16, 2012

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-1.3-4 of the General Laws in Chapter 12-1.3 entitled
2 "Expungement of Criminal Records" is hereby amended to read as follows:

3 **12-1.3-4. Effect of expungement of records -- Access to expunged records --**

4 **Wrongful disclosure.** -- (a) Any person having his or her record expunged shall be released from
5 all penalties and disabilities resulting from the crime of which he or she had been convicted,
6 except, upon conviction of any subsequent crime, the expunged conviction may be considered as
7 a prior conviction in determining the sentence to be imposed.

8 (b) In any application for employment, license, or other civil right or privilege, or any
9 appearance as a witness, a person whose conviction of a crime has been expunged pursuant to this
10 chapter may state that he or she has never been convicted of the crime; provided, that if the
11 person is an applicant for a law enforcement agency position, for admission to the bar of any
12 court, an applicant for a teaching certificate, under chapter 11 of title 16, [for an initial](#)
13 [professional license, or for a professional license renewal with the department of health,](#) a
14 coaching certificate under section 16-11.1-1, or the operator or employee of an early childhood
15 education facility pursuant to chapter 48.1 of title 16, the person shall disclose the fact of a
16 conviction.

17 (c) Whenever the records of any conviction and/or probation of an individual for the
18 commission of a crime have been expunged under the provisions of this chapter, any custodian of
19 the records of conviction relating to that crime shall not disclose the existence of the records upon

1 inquiry from any source unless the inquiry is that of the individual whose record was expunged,
2 that of a sentencing court following the conviction of the individual for the commission of a
3 crime, or that of a bar admission, character and fitness, or disciplinary committee, board, or
4 agency, or court which is considering a bar admission, character and fitness, or disciplinary
5 matter, or that of the commissioner of elementary and secondary education, or that of the
6 department of health regarding licensure and/or disciplinary action of any and all health
7 professionals under its regulatory authority, or that of any law enforcement agency when the
8 nature and character of the offense with which an individual is to be charged would be affected
9 by virtue of the person having been previously convicted of the same offense.

10 (d) The custodian of any records which have been expunged pursuant to the provisions
11 of this chapter shall only release or allow access to those records for the purposes specified in
12 subsections (b) or (c) of this section or by order of a court. Any agency and/or person who
13 willfully refuses to carry out the expungement of the records of conviction pursuant to section 12-
14 1.3-2, or this section or willfully releases or willfully allows access to records of conviction,
15 knowing them to have been expunged, shall be civilly liable.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

1 This act would amend the provisions of the general or public laws relating to
2 expungement of criminal records, to require applicants to the department of health for
3 professional initial licenses or license renewals to disclose all criminal convictions regardless of
4 expungement and would require any custodian of records to release, and allow access to any
5 expunged criminal records upon request from the department of health regarding licensure and/or
6 disciplinary action of any and all health professionals under its regulatory authority.

7 This act would take effect upon passage.

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