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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senator Harold M. Metts

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-1.3-1. Definitions.** -- For purposes of this chapter only, the following definitions  
4 apply:

5 (1) "Crime of violence" includes murder, manslaughter, first degree arson, kidnapping  
6 with intent to extort, robbery, larceny from the person, first degree sexual assault, second degree  
7 sexual assault, first and second degree child molestation, assault with intent to murder, assault  
8 with intent to rob, assault with intent to commit first degree sexual assault, burglary, and entering  
9 a dwelling house with intent to commit murder, robbery, sexual assault, or larceny.

10 (2) "Expungement of records and records of conviction" means the sealing and retention  
11 of all records of a conviction and/or probation and the removal from active files of all records and  
12 information relating to conviction and/or probation.

13 (3) "First offender" means a person who has been convicted of a felony offense or a  
14 misdemeanor offense, and :

15 (i) Who has not been previously convicted of or placed on probation for a felony or a  
16 misdemeanor and against whom there is no criminal proceeding pending in any court; or

17 (ii) Has not been previously convicted of or placed on probation for a felony for a period  
18 of twenty (20) years or a misdemeanor for a period of ten (10) years from the date that relief is  
19 sought pursuant to this section and against whom there is no criminal proceeding pending in any

1 court; and

2 (iii) For the purpose of this section only, those previously convicted of or placed on  
3 probation for violations of section 31-11-18 of the general laws and otherwise eligible for relief  
4 under this section shall be deemed "first offenders."

5 (4) "Law enforcement agency" means a state police organization of this or any other  
6 state, the enforcement division of the department of environmental management, the office of the  
7 state fire marshal, the capitol police, a law enforcement agency of the federal government, and  
8 any agency, department, or bureau of the United States government which has as one of its  
9 functions the gathering of intelligence data.

10 (5) "Records" and "records of conviction and/or probation" include all court records, all  
11 records in the possession of any state or local police department, the bureau of criminal  
12 identification and the probation department, including, but not limited to, any fingerprints,  
13 photographs, physical measurements, or other records of identification. The terms "records" and  
14 "records of conviction, and/or probation" do not include the records and files of the department of  
15 attorney general which are not kept by the bureau of criminal identification in the ordinary course  
16 of the bureau's business.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would amend the definition of “first offender” for purposes of consideration  
2 under the expungement statute.

3           This act would take effect upon passage.

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By request