

2013 -- S 0423

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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: Senators Metts, Pichardo, McCaffrey, Jabour, and P Fogarty

Date Introduced: February 26, 2013

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

3 **12-1.3-2. Motion for expungement.** -- (a) Any person who is a first offender may file a
4 motion for the expungement of all records and records of conviction for a felony or misdemeanor
5 by filing a motion in the court in which the conviction took place, provided that no person who
6 has been convicted of a crime of violence shall have his or her records and records of conviction
7 expunged.

8 (b) Any person who has been convicted of more than one misdemeanor, but fewer than
9 six (6) misdemeanors, and has not been convicted of a felony may file a motion for the
10 expungement of any or all of those misdemeanors in the court in which the convictions took
11 place, provided that convictions for offenses under chapter 12-29, section 31-27-2 or section 31-
12 27-2.1 are not eligible for and may not be expunged.

13 (c)(b) Subject to subsection (a) of this section, a person may file a motion for the
14 expungement of records relating to a misdemeanor conviction after five (5) years from the date of
15 the completion of his or her sentence.

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

19 (e) Subject to subsection (b) of this section, a person may file a motion for the

1 [expungement of records relating to misdemeanor convictions after ten \(10\) years from the date of](#)
2 [the completion of his or her last sentence.](#)

3 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting. --** (a)

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

8 (b) The court, after the hearing at which all relevant testimony and information shall be
9 considered, may in its discretion order the expungement of the records of conviction, [but not](#)
10 [records of conviction for offenses under chapter 12-29, section 31-27-2 or section 31-27-2.1 if the](#)
11 [petitioner has been convicted of more than one misdemeanor,](#) of the person filing the motion if it
12 finds:

13 (1) That in the five (5) years preceding the filing of the motion, if the conviction was for
14 a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was
15 for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor,
16 there are no criminal proceedings pending against the person, and he or she has exhibited good
17 moral character; [or](#)

18 [\(2\) That in the ten \(10\) years preceding the filing of the motion, if the convictions were](#)
19 [for multiple misdemeanors, the petitioner has not been convicted nor arrested for any felony or](#)
20 [misdemeanor, there are no criminal proceedings pending against the person, and he or she has](#)
21 [exhibited good moral character; and](#)

22 ~~(3)~~ (2) That the petitioner's rehabilitation has been attained to the court's satisfaction and
23 the expungement of the records of his or her conviction is consistent with the public interest.

24 (c) If the court grants the motion, it shall, after payment by the petitioner of a one
25 hundred dollar (\$100) fee to be paid to the court order all records and records of conviction
26 relating to the conviction expunged and all index and other references to it deleted. A copy of the
27 order of the court shall be sent to any law enforcement agency and other agency known by either
28 the petitioner, the department of the attorney general, or the court to have possession of the
29 records. Compliance with the order shall be according to the terms specified by the court.

30 SECTION 2. This act shall take effect upon passage. This act shall apply to all
31 convictions imposed before or after the effective date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would allow those persons with up to six misdemeanor convictions to file a
2 motion for the expungement of all records and records of convictions; provided, that no person
3 who has been convicted of any felony shall have his or her records of conviction expunged and
4 convictions for offenses under chapter 12-29, section 31-27-2 or section 31-27-2.1 shall not be
5 eligible for and may not be expunged.

6 Such motion may be sought after ten (10) years from the date of the completion of his or
7 her last sentence.

8 This act would take effect upon passage, and would apply to all convictions imposed
9 before or after the effective date.

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