

2015 -- H 5919

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LC002169  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL PROCEDURE - EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representatives Slater, Keable, Lima, Ajello, and Diaz

Date Introduced: March 18, 2015

Referred To: House 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  
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 not more than five (5) misdemeanors, and has  
9 not been convicted of a felony, may file a motion for expungement pursuant to subsection (e) of  
10 this section in the court in which the convictions took place, provided that convictions for  
11 offenses under chapter 29 of this title, § 31-27-2, or § 31-27-2.1 are not eligible for and may not  
12 be expunged pursuant to this subsection.

13 ~~(b)~~(c) 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 ~~(e)~~(d) 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 the provisions of subsection (b) of this section, a person may file a motion

1 for the expungement of records relating to misdemeanor convictions after:

2 (1) Seven (7) years from the completion of a sentence for a second and final  
3 misdemeanor conviction;

4 (2) Ten (10) years from the completion of a sentence for a third and final misdemeanor  
5 conviction;

6 (3) Fifteen (15) years after the completion of a sentence for a fourth and final  
7 misdemeanor conviction; and

8 (4) Twenty (20) years after the completion of a sentence for a fifth and final  
9 misdemeanor conviction.

10 **12-1.3-3. Motion for expungement – Notice – Hearing – Criteria for granting.** –(a)

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

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

18 ~~That~~ In cases of expungement sought pursuant to § 12-1.3-2(a), that in the five (5) years  
19 preceding the filing of the motion, if the conviction was for a misdemeanor, or in the ten (10)  
20 years preceding the filing of the motion if the conviction was for a felony, the petitioner has not  
21 been convicted nor arrested for any felony or misdemeanor, there are no criminal proceedings  
22 pending against the person, and he or she has exhibited good moral character;

23 (2) In cases of expungement sought pursuant to §§ 12-1.3-2(b) and 12-1.3-2(e), that it has  
24 been at least:

25 (i) Seven (7) years from the completion of a sentence for a second and final misdemeanor  
26 conviction;

27 (ii) Ten (10) years from the completion of a sentence for a third and final misdemeanor  
28 conviction;

29 (iii) Fifteen (15) years after the completion of a sentence for a fourth and final  
30 misdemeanor conviction;

31 (iv) Twenty (20) years after the completion of a sentence for a fifth and final  
32 misdemeanor conviction; and

33 (v) In the interim period the petitioner has not been convicted nor arrested for any felony  
34 or misdemeanor, that there are no criminal proceedings pending against the person, and that he or

1 [she has exhibited good moral character:](#)

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

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

10           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

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1           This act would amend the provisions on expungements of criminal records to include a  
2 person who has been convicted of not more than five (5) misdemeanors, and has not been  
3 convicted of a felony, provided that the person waits a number of years from the completion of  
4 his or her sentence. The waiting period to file a motion for the expungement would increase  
5 depending on the number of misdemeanor convictions. Convictions for certain offenses would  
6 remain ineligible for expungement.

7           This act would take effect upon passage.

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