

2016 -- S 2830 SUBSTITUTE A

=====
LC005087/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO CRIMINAL PROCEDURE-EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senators Archambault, DiPalma, Lombardi, Lynch Prata, and Metts

Date Introduced: March 23, 2016

Referred To: Senate Judiciary

(Children, Youth and Families)

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 – Wrongful**
4 **disclosure. --** (a) Any person having his or her record expunged shall be released from all
5 penalties and disabilities resulting from the crime of which he or she had been convicted, except,
6 upon conviction of any subsequent crime, the expunged conviction may be considered as a prior
7 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, a coaching certificate
13 under § 16-11.1-1, ~~or~~ the operator or employee of an early childhood education facility pursuant
14 to chapter 48.1 of title 16, [or subject to a criminal records check pursuant to the provisions of](#)
15 [§§14-1-27, 14-1-34, 15-7-11, 40-13.2-4, 40-13.2-5 and 40-13.2-5.3](#), the person shall disclose the
16 fact of a 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 director](#)
6 [of the department of children, youth and families when an individual is required to undergo a](#)
7 [criminal records check pursuant to the provisions of §§ 14-1-27, 14-1-34, 15-7-11, 40-13.2-4, 40-](#)
8 [13.2-5 and 40-13.2-5.2](#), or that of any law enforcement agency when the nature and character of
9 the offense with which an individual is to be charged would be affected by virtue of the person
10 having been previously convicted of the same offense.

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

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

=====
LC005087/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE-EXPUNGEMENT OF CRIMINAL RECORDS

1 This act would establish an exception to the expungement of criminal records statute and
2 would allow access, by the director of the department of children, youth and families to those
3 otherwise expunged criminal records, of individuals who are required to undergo a criminal
4 records check to operate or work in facilities licensed by the department of children, youth and
5 families or to those who are employed within that department.

6 This act would take effect upon passage.

=====
LC005087/SUB A
=====