

2017 -- H 5127

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SENTENCE AND EXECUTION

Introduced By: Representatives Knight, Regunberg, Ajello, Craven, and McEntee

Date Introduced: January 18, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-19-19 of the General Laws in Chapter 12-19 entitled "Sentence
2 and Execution" is hereby amended to read as follows:

3 **12-19-19. Sentencing on plea of guilty or nolo contendere -- Deferment of sentence.**

4 (a) Whenever any person is arraigned before the superior court and pleads guilty or nolo
5 contendere, he or she may be at any time sentenced by the court; ~~provided, that if at any time the~~
6 ~~court formally defers sentencing, then the person and the attorney general shall enter into a~~
7 ~~written deferral agreement to be filed with the clerk of the court.~~ The court may also defer
8 sentencing in accordance with this section. When a court formally defers sentence, the court may
9 only impose sentence within five (5) years ~~from and after the date of the written deferral~~
10 ~~agreement,~~ of the date of the person's plea of guilty or nolo contendere, unless during the five-
11 year (5) period, the person shall be declared to have violated the terms and conditions of the
12 deferment pursuant to subsection (b) in which event the court may impose sentence.

13 (b) It shall be an express condition of any deferment of sentence in accordance with this
14 section that the person agreeing to said deferment of sentence shall at all times during the period
15 of deferment keep the peace and be of good behavior. A violation of this express condition, or
16 any other condition set forth by ~~either~~ the court ~~or the written deferral agreement,~~ shall violate the
17 terms and conditions of the deferment of sentence and the court may impose sentence. The
18 determination of whether a violation has occurred shall be made by the court in accordance with
19 procedures relating to violation of probation §§ 12-19-2 and 12-19-14.

1 (c) If a person, after the completion of the five-year (5) deferment period is determined
2 by the court to have kept the peace and been of good behavior and obeyed all conditions imposed
3 by the court, ~~after a hearing to have complied with all of the terms and conditions of the deferral~~
4 ~~agreement~~ including, but not limited to, the payment in full of any court-ordered fines, fees, costs,
5 assessments, and restitution to victims of crime, then the person shall become immediately
6 eligible for consideration for expungement pursuant to the provisions of §§ 12-1.3-2 and 12-1.3-
7 3.

8 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 - SENTENCE AND EXECUTION

1 This act would remove the requirement that the attorney general consent to a deferment
2 of sentencing in a written deferral agreement, and grant the superior court traditional discretion in
3 sentencing matters.

4 This act would take effect upon passage.

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