

2019 -- H 5185

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT
COURTS

Introduced By: Representatives Millea, McKiernan, Ucci, Solomon, and Vella-
Wilkinson

Date Introduced: January 24, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-10-12 of the General Laws in Chapter 12-10 entitled
2 "Preliminary Proceedings in District Courts" is hereby amended to read as follows:

3 **12-10-12. Filing of complaints.**

4 (a) Subject to any other provisions of law relative to the filing of complaints for particular
5 crimes, any judge of the district court or superior court may place on file any complaint in a
6 criminal case other than a complaint for the commission of a felony or a complaint against a
7 person who has been convicted of a felony or a private complaint. The court may in its discretion
8 require, as a condition of the filing, the performance of services for the public good or may attach
9 any other conditions to it that the court shall determine; provided, in cases where the court
10 ordered restitution totals less than two hundred dollars (\$200) to an injured party pursuant to this
11 section or § 12-19-34, the court shall require that full restitution be made at the time of sentencing
12 if the court determines that the defendant has the present ability to make the restitution.

13 (b) Express conditions of any filing in accordance with this section shall be that the
14 defendant at all times during the one year keep the peace and be of good behavior and shall have
15 paid all outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or
16 any other monetary obligations unless reduced or waived by order of the court. A violation of any
17 condition set by the court may be deemed a violation of the filing and the matter that was filed
18 may be resurrected by the court, or the court may impose a sanction. A determination of whether

1 a violation has occurred shall be made by the court in accordance with the procedures relating to
2 a violation of probation, §§ 12-19-9 and 12-19-14.

3 (c) In the event the complaint was originally filed under this section subsequent to the
4 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have
5 been a violation but does not impose a sanction, may sentence the defendant. In the event the
6 court filed the complaint under this section while the defendant maintained a plea of not guilty, if
7 the court finds there to have been a violation but does not impose a sanction, it may proceed to
8 the further disposition of the complaint according to law. If no action is taken on the complaint
9 for a period of one year, or the maximum term of the penalty prescribed for the offense, following
10 the filing, the complaint shall be automatically expunged. In no event shall the period of the filing
11 exceed the maximum term of the penalty prescribed for the offense. No criminal record shall
12 result; provided, that in any civil action for a tort, a plea of guilty or a finding of guilty should be
13 admissible notwithstanding the fact that the complaint has been filed.

14 (d) Notwithstanding the foregoing provisions of this section, in the event a complaint for
15 a crime involving domestic violence was originally filed under this section subsequent to the
16 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have
17 been a violation, may sentence the defendant. In the event the court filed the complaint for a
18 crime involving domestic violence under this section while the defendant maintained a plea of not
19 guilty, if the court finds there to have been a violation, it may proceed to the further disposition of
20 the complaint for a crime involving domestic violence according to law. If, for a period of one
21 year, or the maximum term of the penalty prescribed for the offense, after the date of filing, the
22 defendant is not charged with a violation pursuant to subsection (b) of this section, the filed
23 complaint for the crime involving domestic violence shall be automatically quashed and shall not
24 be resurrected. In no event shall the period of the filing exceed the maximum term of the penalty
25 prescribed for the offense. If, for a period of three (3) years after the date of filing, the defendant
26 is not charged with a crime involving domestic violence, or if so charged, is acquitted or the
27 complaint is dismissed, all records relating to the filed complaint for a crime involving domestic
28 violence shall be expunged without the requirement of filing a motion pursuant to chapter 1.3 of
29 title 12. No criminal records shall result, unless in any civil action for a tort, in which a plea of
30 guilty or a finding of guilty is admissible notwithstanding the fact that the complaint has been
31 filed. Provided, however, that in sentencing a defendant for a crime involving domestic violence
32 of which the defendant was charged within three (3) years after the filing of a prior crime
33 involving domestic violence to which the defendant pleaded guilty or nolo contendere, the court
34 may take the plea into consideration.

1 (e) The defendant shall be advised that any and all bail money relating to a case that
2 remains on deposit and is not claimed at the time of expungement shall be escheated to the state's
3 general treasury in accordance with chapter 12 of title 8.

4 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 limit the period of a filing of a criminal complaint to the maximum term
- 2 of the penalty prescribed by the offense.
- 3 This act would take effect upon passage.

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