

2019 -- H 5839

=====  
LC002061  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————  
A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representatives McKiernan, Millea, Almeida, Williams, and  
Blazejewski

Date Introduced: March 13, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-1.3-3 of the General Laws in Chapter 12-1.3 entitled  
2 "Expungement of Criminal Records" is hereby amended to read as follows:

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

4 (a) Any person filing a motion for expungement of the records of his or her conviction  
5 pursuant to § 12-1.3-2 shall give notice of the hearing date set by the court to the department of  
6 the attorney general and the police department that originally brought the charge against the  
7 person 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 of the  
10 person filing the motion if it finds:

11 (1)(i) That in the five (5) years preceding the filing of the motion, if the conviction was  
12 for a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction  
13 was for a felony, the petitioner has not been convicted nor arrested for any felony or  
14 misdemeanor; there are no criminal proceedings pending against the person; that the person does  
15 not owe any outstanding court-imposed or court-related fees, fines, costs, assessments, or  
16 charges, unless such amounts are reduced or waived by order of the court, and he or she has  
17 exhibited good moral character;

18 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that  
19 the person has complied with all of the terms and conditions of the deferral agreement including,

1 but not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and  
2 restitution to victims of crimes; there are no criminal proceedings pending against the person; and  
3 he or she has established good moral character. Provided, that no person who has been convicted  
4 of a crime of violence shall have their records relating to a deferred sentence expunged; or

5 (iii) Subject only to §§ 12-1.3-2(b) and (f), that in the ten (10) years preceding the filing  
6 of the motion, if the convictions were for multiple misdemeanors, the petitioner has not been  
7 convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings pending  
8 against the person; and they have exhibited good moral character; and, provided that convictions  
9 for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible and may not be  
10 expunged under this subsection.

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

13 (3) Notwithstanding any general or special law to the contrary, that the court using its  
14 discretion finds that the expungement of the records of his or her conviction is consistent with the  
15 public interest.

16 (c) If the court grants the motion, it shall, after payment by the petitioner of a one  
17 hundred dollar (\$100) fee to be paid to the court, order all records and records of conviction  
18 relating to the conviction expunged and all index and other references to it removed from public  
19 inspection. A copy of the order of the court shall be sent to any law enforcement agency and other  
20 agency known by either the petitioner, the department of the attorney general, or the court to have  
21 possession of the records. Compliance with the order shall be according to the terms specified by  
22 the court.

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

26 (e) In cases of expungement sought pursuant to § 12-1.3-2(g), the court shall, after a  
27 hearing at which it finds that all conditions of the original criminal sentence have been completed,  
28 and any and all fines, fees, and costs related to the conviction have been paid in full, order the  
29 expungement without cost to the petitioner. At the hearing, the court may require the petitioner to  
30 demonstrate that the prior criminal conviction would qualify as a decriminalized offense under  
31 current law. The demonstration may include, but is not limited to, an affidavit signed by the  
32 petitioner attesting to the fact that the prior conviction qualifies as a decriminalized offense under  
33 current Rhode Island law.

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

=====  
LC002061  
=====

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

\*\*\*

- 1 This act would allow courts discretion to grant an expungement.
- 2 This act would take effect upon passage.

=====  
LC002061  
=====