

2020 -- H 7104

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LC003235
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- IDENTIFICATION AND APPREHENSION OF
CRIMINALS

Introduced By: Representatives Knight, Filippi, Craven, McEntee, and Speakman

Date Introduced: January 15, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-1-12. Destruction or sealing of records of persons acquitted or otherwise**
4 **exonerated.**

5 (a)(1) Any fingerprint, photograph, physical measurements, or other record of
6 identification, heretofore or hereafter taken by or under the direction of the attorney general, the
7 superintendent of state police, the member or members of the police department of any city or
8 town or any other officer authorized by this chapter to take them, of a person under arrest, prior to
9 the final conviction of the person for the offense then charged, shall be destroyed by all offices or
10 departments having the custody or possession within sixty (60) days after there has been an
11 acquittal, dismissal, no true bill, no information, or the person has been otherwise exonerated
12 from the offense with which he or she is charged, and the clerk of court where the exoneration
13 has taken place shall, consistent with § 12-1-12.1, place under seal all records of the person in the
14 case including all records of the division of criminal identification established by § 12-1-4.

15 (2) Any person previously convicted of any felony offense shall ~~not~~ be entitled to relief
16 under this section ~~except~~ for those records in cases of acquittal after trial. In all other cases where
17 there has been a dismissal, no true bill, no information or if the person has otherwise been
18 exonerated from the offense with which he or she is charged, the person charged shall be eligible

1 to have his or her records of arrest sealed with the court, and the clerk of the court where the
2 exoneration has taken place shall, consistent with § 12-1-12.1, place under seal all court records
3 of the person; provided, however, any custodian of records of the division of criminal
4 identification established by § 12-1-4 shall not disclose the existence of the records upon inquiry
5 from any source unless the inquiry is that of the individual whose record was expunged and shall
6 otherwise only release or allow access to those records by order of a court.

7 (3) Any person who shall violate any provision of this section shall be fined not
8 exceeding one hundred dollars (\$100).

9 (b) Requirements of this section shall also apply to persons detained by police, but not
10 arrested or charged with an offense, or to persons against whom charges have been filed by the
11 court, and the period of such filing has expired.

12 (c) Notwithstanding any other provision of this section, any person who has been charged
13 with a complaint for a crime involving domestic violence where the complaint was filed upon a
14 plea of not guilty, guilty or nolo contendere pursuant to § 12-10-12, must wait a period of three
15 (3) years from the date of filing before the records associated with the charge can be expunged,
16 sealed or otherwise destroyed.

17 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 permit those persons with felony records to petition the court to have their
2 court records of cases where there has been a dismissal, no true bill, no information or if the
3 person has otherwise been exonerated from the offense, sealed by the clerk of the court consistent
4 with § 12-1-12.1. Any custodian of records of the division of criminal identification established
5 by § 12-1-4 would not be permitted to disclose the existence of the records upon inquiry from any
6 source unless the inquiry is that of the individual whose record was expunged or by order of a
7 court.

8 This act would take effect upon passage.

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