

2021 -- H 5532

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT COURTS

Introduced By: Representative Robert E. Craven

Date Introduced: February 12, 2021

Referred To: House Finance

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 "Preliminary  
2 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 criminal  
6 case other than a complaint for the commission of a felony or a complaint against a person who has  
7 been convicted of a felony or a private complaint. The court may in its discretion require, as a  
8 condition of the filing, the performance of services for the public good or may attach any other  
9 conditions to it that the court shall determine; provided, in cases where the court ordered restitution  
10 totals less than two hundred dollars (\$200) to an injured party pursuant to this section or § 12-19-  
11 34, the court shall require that full restitution be made at the time of sentencing if the court  
12 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 may  
18 be resurrected by the court, or the court may impose a sanction. A determination of whether a

1 violation has occurred shall be made by the court in accordance with the procedures relating to a  
2 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 been  
5 a violation but does not impose a sanction, may sentence the defendant. In the event the court filed  
6 the complaint under this section while the defendant maintained a plea of not guilty, if the court  
7 finds there to have been a violation but does not impose a sanction, it may proceed to the further  
8 disposition of the complaint according to law. If no action is taken on the complaint for a period of  
9 one year following the filing, the complaint shall be automatically expunged. No criminal record  
10 shall result; provided, that in any civil action for a tort, a plea of guilty or a finding of guilty should  
11 be admissible notwithstanding the fact that the complaint has been filed.

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

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

34 [\(f\) Where the offense charged is a misdemeanor and the matter has been filed, ten percent](#)

1 [\(10%\) of any fine imposed on the defendant by the court shall be provided to Justice Assistance, in](#)  
2 [accordance with this section, to support the case management of persons receiving a filing with any](#)  
3 [sanctions.](#)

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT  
COURTS

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1           This act would provide that ten percent (10%) of fines imposed for misdemeanor offenses  
2 resulting in a filing shall be provided to Justice Assistance to support the case management of  
3 persons receiving a filing with any sanctions.

4           This act would take effect upon passage.

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