

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Senators Bissaillon, Dimitri, Quezada, and Urso

Date Introduced: March 21, 2025

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

12-1.3-2. Motion for expungement.

(a) Any person who is a first offender may file a motion for the expungement of all records and records of conviction for a felony or misdemeanor by filing a motion in the court in which the conviction took place; provided, that no person who has been convicted of a crime of violence shall have his or her records and records of conviction expunged; and provided, that all outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or any other monetary obligations have been paid, unless such amounts are reduced or waived by order of the court.

(b) Notwithstanding § 12-1.3-1(3) ("first offender"), any person who has been convicted of more than one misdemeanor, but fewer than six (6) misdemeanors, and has not been convicted of a felony may file a motion for the expungement of any or all of those misdemeanors by filing a motion in the court in which the convictions took place; provided that convictions for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible for and may not be expunged under this subsection.

(c) Subject to subsection (a), a person may file a motion for the expungement of records relating to a misdemeanor conviction after five (5) years from the date of the completion of his or her sentence.

(d) Any person who has been convicted of more than one felony and/or more than one

misdemeanor, and who has not been convicted of a felony that is considered a crime of violence, as defined in § 12-1.3-1, may file a motion for the expungement of any or all of those felonies and/or misdemeanors in the court in which the convictions took place; provided that, convictions for offenses under chapter 29 of title 12 and convictions under §§ 31-27-2 or 31-27-2.1 are not eligible for and may not be expunged under this subsection.

~~(d)~~(e) Subject to subsection (a), a person may file a motion for the expungement of records relating to a felony conviction after ten (10) years from the date of the completion of his or her sentence.

~~(e)~~(f) Subject to § 12-19-19(c), and without regard to subsections (a) through (c) of this section, a person may file a motion for the expungement of records relating to a deferred sentence upon its completion, after which the court will hold a hearing on the motion.

~~(f)~~(g) Subject to subsection (b) of this section, a person may file a motion for the expungement of records relating to misdemeanor convictions after ten (10) years from the date of the completion of their last sentence.

~~(g)~~(h) Notwithstanding the provisions of subsections (a) through (f) of this section, a person may file a motion for the expungement of records related to an offense that has been decriminalized subsequent to the date of their conviction, after which the court will hold a hearing on the motion in the court in which the original conviction took place.

(i) Subject to the provisions of subsection (d) of this section, a person may file a motion for the expungement of records related to multiple felony and/or multiple misdemeanor convictions after ten (10) years from the date of the completion of their last sentence.

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

(a) Any person filing a motion for expungement of the records of his or her conviction pursuant to § 12-1.3-2 shall give notice of the hearing date set by the court to the department of the attorney general and the police department that originally brought the charge against the person at least ten (10) days prior to that date.

(b) The court, after the hearing at which all relevant testimony and information shall be considered, may, in its discretion, order the expungement of the records of conviction of the person filing the motion if it finds:

(1)(i) That in the five (5) years preceding the filing of the motion, if the conviction was for a misdemeanor, or in the ten (10) years preceding the filing of the motion, if the conviction was for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings pending against the person; that the person does not owe any outstanding court-imposed or court-related fees, fines, costs, assessments, or charges, unless such

1 amounts are reduced or waived by order of the court; and he or she has exhibited good moral
2 character;

3 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that the
4 person has complied with all of the terms and conditions of the deferral agreement including, but
5 not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and
6 restitution to victims of crimes; there are no criminal proceedings pending against the person; and
7 he or she has established good moral character. Provided, that no person who has been convicted
8 of a crime of violence shall have their records relating to a deferred sentence expunged; ~~or~~

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

15 (iv) That in the ten (10) years preceding the filing of the motion if the convictions were for
16 multiple felonies and for multiple misdemeanors, the petitioner has not been convicted nor arrested
17 for any felony or misdemeanor, there are no criminal proceedings pending against the person, and
18 they have exhibited good moral character. The hearing judge shall consider the person's
19 background, employment, family ties, involvement in the community and other relevant
20 considerations, and make a determination upon the preponderance of the evidence that the person
21 seeking expungement exhibits good moral character. No one factor that the hearing judge considers
22 shall be determinative; provided, however, the judge shall consider the person's overall progress
23 since their conviction. The judge may, but is not required to, order and/or request that the
24 department of probation and parole provide a copy of the person's probation/parole file for review
25 before making a final determination.

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

28 (c) If the court grants the motion, it shall order all records and records of conviction relating
29 to the conviction expunged and all index and other references to it removed from public inspection.
30 A copy of the order of the court shall be sent to any law enforcement agency and other agency
31 known by either the petitioner, the department of the attorney general, or the court to have
32 possession of the records. Compliance with the order shall be according to the terms specified by
33 the court.

34 (d) The defendant shall be advised at the hearing that any and all bail money relating to a

1 case that remains on deposit and is not claimed at the time of expungement shall be escheated to
2 the state's general treasury in accordance with chapter 12 of title 8.

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

11 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 -- EXPUNGEMENT OF CRIMINAL RECORDS

- 1 This act would permit those individuals convicted of multiple felonies and misdemeanors
2 to have their records expunged and provide criteria for the court to consider in determining whether
3 the person is of good moral character.
4 This act would take effect upon passage.

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