

2025 -- S 0876 SUBSTITUTE A

LC002564/SUB A/2

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:

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

3 **12-1.3-1. Definitions.**

4 For purposes of this chapter only, the following definitions apply:

5 (1) "Crime of violence" includes murder, manslaughter, first-degree arson, kidnapping
6 with intent to extort, robbery, larceny from the person, first-degree sexual assault, second-degree
7 sexual assault, first- and second-degree child molestation, assault with intent to murder, assault
8 with intent to rob, assault with intent to commit first-degree sexual assault, burglary, and entering
9 a dwelling house with intent to commit murder, robbery, sexual assault, or larceny.

10 (2) "Expungement of records and records of conviction" means the sealing and retention
11 of all records of a conviction and/or probation and the removal from active files of all records and
12 information relating to conviction and/or probation.

13 (3) "First offender" means a person who has been convicted of a felony offense or a
14 misdemeanor offense, and who has not been previously convicted of or placed on probation for a
15 felony or a misdemeanor and against whom there is no criminal proceeding pending in any court.

16 (4) "Law enforcement agency" means a state police organization of this or any other state;
17 the enforcement division of the department of environmental management; the office of the state
18 fire marshal; the capitol police; a law enforcement agency of the federal government; and any
19 agency, department, or bureau of the United States government that has as one of its functions the

1 gathering of intelligence data.

2 (5) “Misdemeanor” includes, but is not limited to, those crimes previously classified as

3 felonies under law at the time the original sentence was imposed but reclassified by the general

4 assembly as a misdemeanor in the interim, prior to the time the motion to expunge is brought.

5 (6) “Other prohibited offenses” include:

6 (i) § 11-5-4 (“assault with dangerous weapon in dwelling house”);

7 (ii) § 11-5-10.1 (“assault on persons sixty (60) years or older causing serious bodily

8 injury”);

9 (iii) § 11-5-10.2 (“assault on a person with severe impairments causing serious bodily

10 injury”);

11 (iv) § 11-5-10.4 (“assault on persons sixty (60) years of age or older by a caretaker causing

12 serious bodily injury”);

13 (v) § 11-5-14.1 (“assault on a child in care of DCYF causing serious bodily injury”);

14 (vi) § 11-5-14.2 (“battery by an adult upon child ten (10) years of age or younger causing

15 serious bodily injury”);

16 (vii) § 11-9-5 (“cruelty to or neglect of child”);

17 (viii) § 11-9-5.3 (“child abuse -- Brendan's law”);

18 (ix) § 11-9-5.4 (“child endangerment”);

19 (x) § 11-37.1-2(f) (“criminal offense against a victim who is a minor”);

20 (xi) Chapter 47 of title 11 (“weapons”);

21 (xii) Chapter 67.1 of title 11 (“uniform act on prevention of and remedies for human

22 trafficking”);

23 (xiii) § 31-26-1(d) (“duty to stop in accidents resulting in personal injury”);

24 (xiv) § 31-27-1 (“driving so as to endanger, resulting in death”);

25 (xv) § 31-27-2.2 (“driving under the influence of liquor or drugs, resulting in death”).

26 ~~(6)~~(7) “Records” and “records of conviction and/or probation” include all court records, all

27 records in the possession of any state or local police department, the bureau of criminal

28 identification, and the probation department, including, but not limited to, any fingerprints,

29 photographs, physical measurements, or other records of identification. The terms “records” and

1 “records of conviction and/or probation” do not include the records and files of the department of
2 attorney general which are not kept by the bureau of criminal identification in the ordinary course
3 of the bureau’s business.

4 **12-1.3-2. Motion for expungement.**

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

11 (b) Notwithstanding § 12-1.3-1(3) (“first offender”), any person who has been convicted
12 of more than one misdemeanor, but fewer than six (6) misdemeanors, and has not been convicted
13 of a felony, which is a crime of violence or other prohibited offenses, as defined in this chapter,
14 may file a motion for the expungement of any or all of those misdemeanors by filing a motion in
15 the court in which the convictions took place; provided that convictions for offenses under chapter
16 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible for and may not be expunged under this
17 subsection.

18 (c) Notwithstanding § 12-1.3-1(3) (“first offender”), any person who has been convicted
19 of more than one felony, but fewer than five (5) felonies, and has not been convicted of a crime of
20 violence, or other prohibited offenses, may file a motion for the expungement of any or all of those
21 felonies by filing a motion in the court in which the convictions took place; provided that,
22 convictions for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1, crimes of violence
23 and other prohibited offenses are not eligible for and may not be expunged under this subsection.
24 Said person shall not be eligible to expunge the remainder of felony offenses otherwise not
25 prohibited after a successful expungement subject to other provisions of this section.

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

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

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

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

4 (h) Subject to subsection (c) of this section, a person may file a motion for the expungement
5 of records relating to felony convictions after fifteen (15) years from the date of the completion of
6 their last sentence.

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

11 **12-1.3-3. Motion for expungement — Notice — Hearing — Criteria for granting.**

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

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

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

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

32 (iii) Subject only to §§ 12-1.3-2(b) and ~~(f)~~(g), that in the ten (10) years preceding the filing
33 of the motion, if the convictions were for multiple misdemeanors, the petitioner has not been
34 convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings pending

1 against the person; and they have exhibited good moral character; and, provided that convictions
2 for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1 are not eligible and may not be
3 expunged under this subsection; or

4 (iv) Subject only to §§ 12-1.3-2 (c) and (h), that in the fifteen (15) years preceding the
5 filing of the motion, if the convictions were for multiple felonies, the petitioner has not been
6 convicted nor arrested for any felony or misdemeanor; there are no criminal proceedings pending
7 against the person; and they have exhibited good moral character; and, provided that, convictions
8 for offenses under chapter 29 of title 12, § 31-27-2 or § 31-27-2.1, crimes of violence and other
9 prohibited offenses are not eligible and may not be expunged under this subsection.

10 (2) That the petitioner's rehabilitation has been attained to the court's satisfaction and the
11 expungement of the records of his or her conviction is consistent with the public interest. The
12 hearing judge may consider the person's background, employment, community ties and
13 involvement in their community and other relevant considerations, and make a determination upon
14 the preponderance of the evidence that the person seeking expungement exhibits good moral
15 character. No one factor that the hearing judge considers shall be determinative; provided, however,
16 the judge may consider the person's overall rehabilitative progress since their conviction. The judge
17 may, but is not required to, order and/or request that the department of probation and parole provide
18 a copy of the person's probation/parole file for review before making a final determination.

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

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

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

1 law.

2 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 -- 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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