

2015 -- H 5818

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT

Introduced By: Representatives Almeida, Maldonado, Lally, Regunberg, and Barros

Date Introduced: March 06, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-1.3-2. Motion for expungement.** -- (a) Any person who is a first offender may file a
4 motion for the expungement of all records and records of conviction for a felony or misdemeanor
5 by filing a motion in the court in which the conviction took place, provided that no person who
6 has been convicted of a crime of violence shall have his or her records and records of conviction
7 expunged.

8 (b) Any person who has been convicted of more than one misdemeanor, but fewer than
9 six (6) misdemeanors, and has not been convicted of a felony, may file a motion for the
10 expungement of any or all of those misdemeanors in the court in which the convictions took
11 place, provided that convictions for offenses under chapter 29 of title 12, § 31-27-2, or § 31-27-
12 2.1 are not eligible for, and may not be expunged pursuant to this subsection.

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

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

19 (e) Subject to subsection (b) of this section, a person may file a motion for the

1 [expungement of his or her records relating to misdemeanor convictions after ten \(10\) years from](#)
2 [the date of the completion of his or her last sentence.](#)

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

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

11 (1) [In cases of expungement sought pursuant to §12-1.3-2\(a\),](#)~~That~~ [that](#) in the five (5)
12 years preceding the filing of the motion, if the conviction was for a misdemeanor, or in the ten
13 (10) years preceding the filing of the motion if the conviction was for a felony, the petitioner has
14 not been convicted nor arrested for any felony or misdemeanor, there are no criminal proceedings
15 pending against the person, and he or she has exhibited good moral character;

16 (2) [In cases of expungement sought pursuant to §12-1.3-2\(b\), and it has been ten \(10\)](#)
17 [years from the date of the completion of his or her last sentence, and in the interim the petitioner](#)
18 [has not been convicted nor arrested for any felony or misdemeanor, there are no criminal](#)
19 [proceedings pending against the person, and he or she has exhibited good moral character.](#)

20 ~~(2)~~(3) That the petitioner's rehabilitation has been attained to the court's satisfaction and
21 the expungement of the records of his or her conviction is consistent with the public interest.

22 (c) If the court grants the motion, it shall, after payment by the petitioner of a one
23 hundred dollar (\$100) fee to be paid to the court order all records and records of conviction
24 relating to the conviction expunged and all index and other references to it deleted. A copy of the
25 order of the court shall be sent to any law enforcement agency and other agency known by either
26 the petitioner, the department of the attorney general, or the court to have possession of the
27 records. Compliance with the order shall be according to the terms specified by the court.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would allow for the potential expungement of up to six (6) misdemeanors,
2 assuming the defendant has no felony convictions, ten (10) years after the last sentence has
3 expired and no arrests or convictions within that ten (10) year time period. This act would not
4 apply to convictions for driving while intoxicated, refusal to submit to breathalyzers (charged as
5 criminal offenses) or to any domestic violence offenses.

6 This act would take effect upon passage.

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