

2018 -- H 7028

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LC003127  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL PROCEDURE - IDENTIFICATION AND APPREHENSION OF  
CRIMINALS

Introduced By: Representatives Lombardi, Coughlin, Williams, Hull, and Ajello

Date Introduced: January 03, 2018

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.**

4 (a) Any person who is a first offender may file a motion for the expungement of all  
5 records and records of conviction for a felony or misdemeanor by filing a motion in the court in  
6 which the conviction took place; provided, that no person who has been convicted of a crime of  
7 violence shall have his or her records and records of conviction expunged; and provided, that all  
8 outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or any  
9 other monetary obligations have been paid, unless such amounts are reduced or waived by order  
10 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 may file a motion for the expungement of any or all of those misdemeanors by filing a  
14 motion in the court in which the convictions took place; provided that convictions for offenses  
15 under chapter 29 of title 12, §§ 31-27-2 or 31-27-2.1 are not eligible for and may not be expunged  
16 under this subsection.

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

1 her sentence.

2 (d) Any person who has been convicted of more than one felony, and who has not been  
3 convicted of a felony which is considered a crime of violence, may file a motion for the  
4 expungement of any or all of those felonies in the court in which the convictions took place;  
5 provided that multiple convictions for offenses under chapter 29 of title 12 are not eligible for and  
6 may not be expunged.

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

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

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

16 (h) Subject to subsection (d) of this section, a person may file a motion for the  
17 expungement of records relating to felony convictions after twenty (20) years from the date of the  
18 completion of their last sentence.

19 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.**

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

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

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

34 (ii) That after a hearing held under the provisions of § 12-19-19(c), the court finds that

1 the person has complied with all of the terms and conditions of the deferral agreement including,  
2 but not limited to, the payment in full of any court-ordered fines, fees, costs, assessments, and  
3 restitution to victims of crimes; there are no criminal proceedings pending against the person; and  
4 he or she has established good moral character. Provided, that no person who has been convicted  
5 of a crime of violence shall have their records relating to a deferred sentence expunged; ~~or~~

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

12 (iv) That in the twenty (20) years preceding the filing of the motion, if the convictions  
13 were for multiple felonies, the petitioner has not been convicted nor arrested for any felony or  
14 misdemeanor, there are no criminal proceedings pending against the person, and they have  
15 exhibited good moral character.

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

18 (c) If the court grants the motion, it shall, after payment by the petitioner of a one  
19 hundred dollar (\$100) fee to be paid to the court, order all records and records of conviction  
20 relating to the conviction expunged and all index and other references to it removed from public  
21 inspection. A copy of the order of the court shall be sent to any law enforcement agency and other  
22 agency 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 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 - IDENTIFICATION AND APPREHENSION OF  
CRIMINALS

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1           This act would allow those persons with multiple felony convictions to file a motion for  
2 expungement of all records and records of convictions; provided that no person who has been  
3 convicted of any felony which is considered a crime of violence shall have their records of  
4 conviction expunged and convictions for offenses under chapter 29 of title 12 shall not be eligible  
5 for and may not be expunged. Motions may be brought after twenty (20) years from the date of  
6 the completion of their last sentence.

7           This act would take effect upon passage.

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