

2010 -- H 7347

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Segal, Carnevale, D Caprio, Slater, and Gemma

Date Introduced: February 03, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-19-18 of the General Laws in Chapter 12-19 entitled "Sentence
2 and Execution" is hereby amended to read as follows:

3 ~~12-19-18. Termination of imprisonment on deferred sentence on failure of grand~~
4 ~~jury to indict~~ Termination of imprisonment on deferred sentence on failure of grand jury to
5 indict – Determinations of insufficient evidence lack of probable cause or exercise of
6 prosecutorial discretion. -- (a) Whenever any person has been sentenced to imprisonment for
7 violation of a deferred sentence by reason of the alleged commission of a felony and the grand
8 jury has failed to return any indictment or an information has not been filed on the charge which
9 was specifically alleged to have constituted the violation of the deferred sentence the sentence to
10 imprisonment for the alleged violation of the deferred sentence shall, on motion made to the court
11 on behalf of the person so sentenced, be quashed, and imprisonment shall be immediately
12 terminated, and the deferred sentence shall have same force and effect as if no sentence to
13 imprisonment had been imposed.

14 (b) Whenever any person, after an evidentiary hearing, has been sentenced to
15 imprisonment for violation of a suspended sentence or probationary period by reason of the
16 alleged commission of a felony or misdemeanor said sentence of imprisonment shall, on a motion
17 made to the court on behalf of the person so sentenced, be quashed, and imprisonment shall be
18 terminated when any of the following occur on the charge which was specifically alleged to have
19 constituted the violation:

1 (1) After trial person is found "not guilty" or a motion for judgment of acquittal or to
2 dismiss is made and granted pursuant to Superior or District Court Rule of Criminal Procedure
3 29;

4 (2) After hearing evidence, a "no true bill" is returned by the grand jury;

5 (3) After consideration by an assistant or special assistant designated by the attorney
6 general, a "no information" based upon a lack of probable cause is returned;

7 (4) A motion to dismiss is made and granted pursuant to the Rhode Island general laws
8 Sec. 12-12-1.7 and/or Superior Court Rule of Criminal Procedure 9.1; or

9 (5) The charge fails to proceed in District or Superior Court under circumstances where
10 the state is indicating a lack of probable cause, or circumstances where the state or its agents
11 believe there is doubt about the capability of the accused.

12 (c) This section shall apply to all individuals sentenced to imprisonment for violation of a
13 suspended sentence or probationary period by reason of the alleged commission of a felony or
14 misdemeanor and shall not alter the ability of the court to revoke a suspended sentence or
15 probationary period for an allegation of conduct that does not rise to the level of criminal
16 conduct.

17 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 -- SENTENCE AND EXECUTION

1 This act would require termination of imprisonment on a deferred sentence when the
2 grand jury fails to return an indictment and termination of imprisonment for violation of a
3 suspended sentence or probationary period if after trial the person is found not guilty a no true bill
4 is returned by grand jury or a no information by the attorney general or a motion to dismiss or for
5 lack of probable cause.

6 This act would take effect upon passage.

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