

2010 -- H 7923

LC02187

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 Almeida, Carnevale, Williams, and Diaz

Date Introduced: March 17, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-19-19. Sentencing on plea of guilty or nolo contendere -- Deferment of sentence. --**

4 (a) Whenever any ~~prisoner~~ person is arraigned before the superior court and pleads guilty or
5 ~~refuses to contend with the state~~ nolo contendere, he or she may be at any time sentenced by the
6 court; provided, that if at any time the court formally defers sentencing then the ~~defendant, and~~
7 ~~upon the deferral a written agreement concerning the deferring of sentence is entered into~~
8 ~~between the attorney general and the prisoner and~~ person and the attorney general shall enter into
9 a written deferral agreement to be filed with the clerk of the court. When a court formally defers
10 sentence, the court may only impose sentence within five (5) years from and after the date of the
11 written deferral agreement, unless during the five (5) year period, the ~~prisoner~~ person shall be
12 ~~sentenced to imprisonment in this or in any other state, in which event the court may impose~~
13 ~~sentence at any time within five (5) years from and after the termination of the sentence of~~
14 ~~imprisonment, or unless at the time the sentence is formally deferred the prisoner is serving a~~
15 ~~term of imprisonment under sentence previously imposed in another case, in which event the~~
16 ~~court may impose sentence at any time within five (5) years from and after the date on which the~~
17 ~~prisoner is released from prison either on parole or at the termination of the sentence of~~
18 ~~imprisonment, whichever first occurs.~~ declared to have violated the terms and conditions of the
19 deferral pursuant to subsection (b) of this section in which event the court may impose

1 sentence.

2 (b) It shall be an express condition of any deferment of sentence in accordance with this
3 section that the person agreeing to said deferment of sentence shall at all times during the period
4 of deferment keep the peace and be of good behavior. A violation of this express condition or
5 any other condition set forth by either the court or the written deferral agreement shall violate the
6 terms and conditions of the deferment of sentence and the court may impose sentence. The
7 determination of whether a violation has occurred shall be made by the court in accordance with
8 procedures relating to violation of probation sections 12-19-2 and 12-19-14.

9 (c) If a person, after the completion of the five (5) year deferment period is determined by
10 the court to have complied with all of the terms and conditions of the written deferral agreement,
11 then the person shall be exonerated of the charges for which sentence was deferred and records
12 relating to the criminal complaint, information or indictment shall be sealed pursuant to the
13 provision of section 12-1-12. Further, if any record of the criminal complaint, information or
14 indictment has been entered into a docket or alphabetical index, whether in writing or electronic
15 information storage or other data compilation system, all references to the identity of the person
16 charged by the complaint shall be sealed.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide that any person arraigned before the superior court who pleads
2 guilty or nolo contendere, and whose sentence is deferred, shall enter into a written deferral
3 agreement with the attorney general. This act would further provide that after the completion of
4 the deferment period, a person who has complied with all the conditions of the written deferral
5 agreement would be exonerated of the charges and all applicable records would be sealed.

6 This act would take effect upon passage.

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