

2014 -- H 8027

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LC005368  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- EXPUNGEMENT OF CRIMINAL RECORDS

Introduced By: Representative Scott Slater

Date Introduced: April 03, 2014

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

11 (c) Subject to subsection (a) of this section, a person may file a motion for the  
12 expungement of records relating to a felony conviction after ten (10) years from the date of the  
13 completion of his or her sentence.

14 (d) Notwithstanding subsections (a) through (c) of this section, a person may file a  
15 motion for the expungement of records related to an offense that has been decriminalized  
16 subsequent to the date of such conviction, after which a hearing on the motion shall be held in the  
17 court in which the original conviction took place.

18 **12-1.3-3. Motion for expungement -- Notice -- Hearing -- Criteria for granting.** -- (a)  
19 Any person filing a motion for expungement of the records of his or her conviction pursuant to

1 section 12-1.3-2 shall give notice of the hearing date set by the court to the department of the  
2 attorney general and the police department which originally brought the charge against the person  
3 at least ten (10) days prior to that date.

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

7 (1) That in the five (5) years preceding the filing of the motion, if the conviction was for  
8 a misdemeanor, or in the ten (10) years preceding the filing of the motion if the conviction was  
9 for a felony, the petitioner has not been convicted nor arrested for any felony or misdemeanor,  
10 there are no criminal proceedings pending against the person, and he or she has exhibited good  
11 moral character;

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

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

20 (d) In cases of expungement sought pursuant to § 12-1.3-2(d), the court shall, after a  
21 hearing at which it finds that all conditions of the original criminal sentence have been completed  
22 and any and all fines, fees, and costs related to conviction have been paid in full, order the  
23 expungement without cost to the petitioner. At the hearing, the court shall require the petitioner to  
24 demonstrate that the prior criminal conviction would qualify as a decriminalized offense under  
25 current law. Such demonstration may include, but is not limited to, an affidavit signed by the  
26 petitioner attesting to the fact that the prior conviction qualifies as a decriminalized offense under  
27 current law.

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 -- EXPUNGEMENT OF CRIMINAL RECORDS

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1           This act would allow a person to file a motion for the expungement of the records of his  
2 or her conviction for an offense that has been decriminalized subsequent to the conviction.

3           This act would take effect upon passage.

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