

2013 -- S 0339

=====
LC00159
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————
A N A C T

RELATING TO CRIMINAL PROCEDURE - IDENTIFICATION AND APPREHENSION OF
CRIMINALS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-1-12 and 12-1-12.1 of the General Laws in Chapter 12-1
2 entitled "Identification and Apprehension of Criminals" are hereby amended to read as follows:

3 **12-1-12. Destruction or sealing of records of persons acquitted or otherwise**
4 **exonerated.** -- (a)(1) Any fingerprint, photograph, physical measurements, or other record of
5 identification, heretofore or hereafter taken by or under the direction of the attorney general, the
6 superintendent of state police, the member or members of the police department of any city or
7 town or any other officer authorized by this chapter to take them, of a person under arrest, prior to
8 the final conviction of the person for the offense then charged, shall be destroyed by all offices or
9 departments having the custody or possession within sixty (60) days after there has been an
10 acquittal, dismissal, no true bill, no information, or the person has been otherwise exonerated
11 from the offense with which he or she is charged, and the clerk of court where the exoneration
12 has taken place shall, consistent with section 12-1-12.1, place under seal all records of the person
13 in the case including all records of the division of criminal identification established by section
14 12-1-4; ~~provided, that the~~.

15 (2) Any person ~~shall not have been~~ previously convicted of any felony offense shall not
16 be entitled to relief under this section except for those records in cases of acquittal after trial.

17 (3) Any person who shall violate any provision of this section shall be fined not
18 exceeding one hundred dollars (\$100).

1 (b) ~~requirements~~ Requirements of this section shall also apply to persons detained by
2 police, but not arrested or charged with an offense, or to persons against whom charges have been
3 filed by the court, and the period of such filing has expired.

4 (c) Notwithstanding any other provision of this section, any person who has been
5 charged with a complaint for a crime involving domestic violence where the complaint was filed
6 upon a plea of not guilty, guilty or nolo contendere pursuant to section 12-10-12, must wait a
7 period of three (3) years from the date of filing before the records associated with the charge can
8 be expunged, sealed or otherwise destroyed.

9 **12-1-12.1. Motion for sealing of records of persons acquitted or otherwise**
10 **exonerated.** -- (a) Any person who is acquitted or otherwise exonerated of all counts in a
11 criminal case, including, but not limited to, dismissal or filing of a no true bill or no information,
12 may file a motion for the sealing of his or her court records in the case, provided, that no person
13 who has been convicted of a felony shall ~~have his or her court records sealed pursuant to this~~
14 ~~section~~ be entitled to relief under this section except for those records in cases of acquittal after
15 trial.

16 (b) Any person filing a motion for sealing his or her court records pursuant to this
17 section shall give notice of the hearing date set by the court to the department of the attorney
18 general and the police department which originally brought the charge against the person at least
19 ten (10) days prior to the hearing.

20 (c) If the court, after the hearing at which all relevant testimony and information shall be
21 considered, finds that the person is entitled to the sealing of the records, it shall order the sealing
22 of the court records of the person in that case.

23 (d) The clerk of the court shall, within forty-five (45) days of the order of the court
24 granting the motion, place under seal the court records in the case in which the acquittal,
25 dismissal, no true bill, no information or other exoneration has been entered.

26 (e) Notwithstanding any other provision of this section, in all cases involving a filing
27 subsequent to a plea of not guilty, guilty or nolo contendere to a charge of a crime involving
28 domestic violence, the court having jurisdiction over the case shall retain the records of the case
29 for a period of three (3) years from the date of filing. The records shall not be expunged, sealed,
30 or otherwise destroyed for a period of three (3) years from the date of the filing.

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

=====
LC00159
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE - IDENTIFICATION AND APPREHENSION OF
CRIMINALS

- 1 This act would provide that court records cannot be sealed if a person has been
- 2 previously convicted of a felony except in cases of acquittal after trial.
- 3 This act would take effect upon passage.

=====
LC00159
=====