

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO CRIMINAL PROCEDURE -- PRELIMINARY PROCEEDINGS IN DISTRICT COURTS

Introduced By: Senators LaMountain, McKenney, Burke, Raptakis, Euer, Tikoian, and F. Lombardi

Date Introduced: February 16, 2023

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-10-12 of the General Laws in Chapter 12-10 entitled "Preliminary
2 Proceedings in District Courts" is hereby amended to read as follows:

3 **12-10-12. Filing of complaints.**

4 (a) Subject to any other provisions of law relative to the filing of complaints for particular
5 crimes, any judge of the district court or superior court may place on file any complaint in a criminal
6 case other than a complaint for the commission of a felony or a complaint against a person who has
7 been convicted of a felony or a private complaint. The court may, in its discretion, determine the
8 length of time in which the case will be on file but in no event shall it be longer than the maximum
9 jail sentence allowed by law. The court may in its discretion require, as a condition of the filing,
10 the performance of services for the public good or may attach any other conditions to it that the
11 court shall determine; provided, in cases where the court ordered restitution totals less than two
12 hundred dollars (\$200) to an injured party pursuant to this section or § 12-19-34, the court shall
13 require that full restitution be made at the time of sentencing if the court determines that the
14 defendant has the present ability to make the restitution.

15 (b) Express conditions of any filing in accordance with this section shall be that the
16 defendant at all times during the ~~one-year~~ period of filing keep the peace and be of good behavior
17 and shall have paid all outstanding court-imposed or court-related fees, fines, costs, assessments,
18 charges, and/or any other monetary obligations unless reduced or waived by order of the court. A

1 violation of any condition set by the court may be deemed a violation of the filing and the matter
2 that was filed may be resurrected by the court, or the court may impose a sanction. A determination
3 of whether a violation has occurred shall be made by the court in accordance with the procedures
4 relating to a violation of probation, §§ 12-19-9 and 12-19-14.

5 (c) In the event the complaint was originally filed under this section subsequent to the
6 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have been
7 a violation but does not impose a sanction, may sentence the defendant. In the event the court filed
8 the complaint under this section while the defendant maintained a plea of not guilty, if the court
9 finds there to have been a violation but does not impose a sanction, it may proceed to the further
10 disposition of the complaint according to law. If no action is taken on the complaint ~~for a period of~~
11 ~~one year following the filing~~ during the period of filing, the complaint shall be automatically
12 expunged. No criminal record shall result; provided, that in any civil action for a tort, a plea of
13 guilty or a finding of guilty should be admissible notwithstanding the fact that the complaint has
14 been filed.

15 (d) Notwithstanding the foregoing provisions of this section, in the event a complaint for a
16 crime involving domestic violence was originally filed under this section subsequent to the
17 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have been
18 a violation, may sentence the defendant. In the event the court filed the complaint for a crime
19 involving domestic violence under this section while the defendant maintained a plea of not guilty,
20 if the court finds there to have been a violation, it may proceed to the further disposition of the
21 complaint for a crime involving domestic violence according to law. If, ~~for a period of one year~~
22 ~~following the filing~~ during the period of filing, the defendant is not charged with a violation
23 pursuant to subsection (b) of this section, the filed complaint for the crime involving domestic
24 violence shall be automatically quashed and shall not be resurrected. If, for a period of three (3)
25 years after the date of filing, the defendant is not charged with a crime involving domestic violence,
26 or if so charged, is acquitted or the complaint is dismissed, all records relating to the filed complaint
27 for a crime involving domestic violence shall be expunged without the requirement of filing a
28 motion pursuant to chapter 1.3 of title 12. No criminal records shall result, unless in any civil action
29 for a tort, in which a plea of guilty or a finding of guilty is admissible notwithstanding the fact that
30 the complaint has been filed. Provided, however, that in sentencing a defendant for a crime
31 involving domestic violence of which the defendant was charged within three (3) years after the
32 filing of a prior crime involving domestic violence to which the defendant pleaded guilty or nolo
33 contendere, the court may take the plea into consideration.

34 (e) The defendant shall be advised that any and all bail money relating to a case that remains

1 on deposit and is not claimed at the time of expungement shall be escheated to the state's general
2 treasury in accordance with chapter 12 of title 8.

3 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 -- PRELIMINARY PROCEEDINGS IN DISTRICT
COURTS

- 1 This act would provide judges the discretion to make the time period of a filing under §
- 2 12-10-12, but in no event longer than the maximum jail sentence allowed by law.
- 3 This act would take effect upon passage.

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