

2016 -- S 2837

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LC005428
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- FILING OF COMPLAINTS

Introduced By: Senators Lynch Prata, and Doyle

Date Introduced: March 23, 2016

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
2 "Preliminary Proceedings in District Courts" is hereby amended to read as follows:

3 **12-10-12. Filing of complaints.** -- (a) Subject to any other provisions of law relative to
4 the filing of complaints for particular crimes, any judge of the district court or superior court may
5 place on file any complaint in a criminal case other than a complaint for the commission of a
6 felony or a complaint against a person who has been convicted of a felony or a private complaint.
7 The court may in its discretion require, as a condition of the filing, the performance of services
8 for the public good or may attach any other conditions to it that the court shall determine;
9 provided, in cases where the court ordered restitution totals less than two hundred dollars (\$200)
10 to an injured party pursuant to this section or § 12-19-34, the court shall require that full
11 restitution be made at the time of sentencing if the court determines that the defendant has the
12 present ability to make the restitution.

13 (b) Express conditions of any filing in accordance with this section that the defendant
14 shall at all times during the one year keep the peace and be of good behavior and shall have paid
15 all outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or any
16 other monetary obligations unless reduced or waived by order of the court. A violation of these
17 express conditions, or any other condition set by the court, shall be deemed a violation of the
18 filing and the matter that was filed may be resurrected by the court. A determination of whether a
19 violation has occurred shall be made by the court in accordance with the procedures relating to a

1 violation of probation, ~~§§ 12-19-9 and 12-19-14.~~

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

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

30 (e) The defendant shall be advised that any and all bail money relating to a case that
31 remains on deposit and is not claimed at the time of expungement shall be escheated to the state's
32 general treasury in accordance with chapter 12 of title 8.

33 SECTION 2. Sections 12-19-9 and 12-19-14 of the General Laws in Chapter 12-19
34 entitled "Sentence and Execution" are hereby amended to read as follows:

1 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation**
2 **or continuation of suspension.** -- Whenever any person who has been placed on ~~probation a~~
3 ~~filing~~ pursuant to ~~§ 12-9-8~~ §12-10-12 violates the terms and conditions of his or her probation as
4 fixed by the court, the police or the ~~probation violating~~ authority shall inform the attorney general
5 of the violation, and the attorney general shall cause the defendant to appear before the court. The
6 court may request the ~~division of field services~~ violating authority to render a report relative to
7 the conduct of the defendant, and, pending receipt of the report, may order the defendant held
8 without bail for a period not exceeding ten (10) days, excluding Saturdays, Sundays, and
9 holidays. The court shall conduct a hearing to determine whether the defendant has violated the
10 terms and conditions of his or her ~~probation filing~~, at which hearing the defendant shall have the
11 opportunity to be present and to respond. Upon a determination that the defendant has violated
12 the terms and conditions of his or her ~~probation filing~~ the court, in open court and in the presence
13 of the defendant, ~~may remove the suspension and order the defendant committed on the sentence~~
14 ~~previously imposed, or on a lesser sentence, or impose a sentence if one has not been previously~~
15 ~~imposed, or may continue the suspension of a sentence previously imposed,~~ may remove the
16 filing and proceed to the further disposition of the complaint, or continue the filing of the
17 complaint, or may convert the filing to probation as to the court may seem just and proper.

18 **12-19-14. Violation of terms of probation -- Notice to court -- Revocation or**
19 **continuation of suspension.** -- Whenever any person, who has been placed on ~~probation by~~
20 ~~virtue of the suspension of execution of his or her sentence a filing~~ pursuant to ~~§ 12-19-13~~ §12-
21 10-12, violates the terms and conditions of his or her ~~probation filing~~ as fixed by the court, the
22 police ~~or division of field services~~ shall cause the defendant to appear before the court. The court
23 may require the ~~division of field services~~ violating authority to render a written report relative to
24 the conduct of the defendant, and, pending receipt of the report, may order the defendant held
25 without bail for a period not exceeding ten (10) days excluding Saturdays, Sundays, and holidays.
26 The court shall conduct a hearing to determine whether the defendant has violated the terms and
27 conditions of his or her ~~probation filing~~, at which hearing the defendant shall have the opportunity
28 to be present and to respond. Upon a determination that the defendant has violated the terms and
29 conditions of his or her ~~probation filing~~ the court, in open court and in the presence of the
30 defendant, ~~may revoke the suspension and order the defendant committed on the sentence~~
31 ~~previously imposed, or on a lesser sentence, or may continue the suspension~~ may remove the
32 filing and proceed to the further disposition of the complaint, or continue the filing of the
33 complaint, or may convert the filing to probation as to the court may seem just and proper.

1 SECTION 3. 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 -- FILING OF COMPLAINTS

- 1 This act would enable a violating authority to inform the attorney general whenever any
- 2 person who has been placed on a filing violates the terms and conditions of the probation.
- 3 This act would take effect upon passage.

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