

# The Just Criminal Justice Group, LLC



Michael A. DiLauro, Esq.  
Owner/Manager

## TESTIMONY IN SUPPORT OF 2025—H 5439 & 2025—S 0910

**Mandating that the Clerk of the District Court automatically seal individual counts of criminal complaints upon dismissal pursuant to Rule 48(a) of the Rules of Criminal Procedure for the District Court.**

- The legislation referenced above would amend *RIGL Sec. 12-1-12.1*, particularly those portions of it that were added in 2022, and allow for the automatic sealing of counts and not just cases dismissed pursuant to Rule 48(a) of the District Court Rule of Criminal Procedure.<sup>1</sup>
- The 2022 legislation was the result of the cooperative efforts and collaboration between The Judiciary, the District Court, the Attorney General's Office (RIAG), and the Public Defender's Office. Considering the General Assembly's actions in 2021 eliminating the last disqualifier for sealing (a prior felony conviction) the 2022 legislation removed procedural barriers to accessing relief for those who have been exonerated by virtue of a dismissal of their cases pursuant to District Court Rule 48(a) (dismissal by the prosecution).
- Sealing orders entered pursuant to *RIGL Sec. 12-1-12.1* as amended in 2022, are directed solely and apply only to court records and those of the RIAG's BCI Division. Law enforcement records are not subject to such sealing orders.
- Like pre-existing law, the changes made to *RIGL Sec. 12-1-12.1* in 2022 require that all counts of the complaint be dismissed pursuant to R.48(a) and do not apply to counts that weren't dismissed. This 'carve-out' language was included at the request of the RIAG. Initial versions of the legislation would have applied to any count that was dismissed pursuant to R.48(a). During discussions and hearings held in 2022 the RIAG agreed to look at implementation and other issues moving forward and would therefore review the language requiring the dismissal of all counts of the criminal complaint again 2023.
- It should be noted that this contrasts with expungement pursuant to the RI Cannabis Act which allows for expungement of eligible marijuana counts and does not require that all counts be marijuana related to be expunged.

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<sup>1</sup> 2022 RIPL Chapters 253, 254. [law22253 \(state.ri.us\)](#); [law22254 \(state.ri.us\)](#).

- Again, in 2022 during discussions and hearings held that resulted in the amendment of *RIGL Sec. 12-1-12.1* to allow for expedited sealing of cases dismissed pursuant to R.48(a), the RIAG agreed to looking at implementation and other issues moving forward and to review the language requiring the dismissal of all counts of the criminal complaint again 2023. In the absence of evidence of hardship in implementing the 2022 changes,<sup>2</sup> it is time to amend the law to reflect the legislation's purpose and intent – to provide for relief in cases of partial exoneration, as is now the case with marijuana and expungement.
- Finally, it is suggested that the language on p.1, line 13, after "2023," and before "shall" specifically "upon request of the defendant" be eliminated in their entirety for the following reasons:
  - The words "request of the defendant" are already contained in p.1, line 14 and apply to all sealings, both under current law and should this legislation be enacted.
  - Duplicitous language may obfuscate the clear intent of the legislature.

**QUESTIONS? COMMENTS? CONCERNS?**

**Please Contact:**

***Michael A. DiLauro, Esq.***  
**The Just Criminal Justice Group, L.L.C.**  
**P.O. Box 7000**  
**Warwick, RI 02887-7000**  
**401-487-3644**  
**madpd2001@yahoo.com**

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<sup>2</sup> The "absence of evidence of hardship" in implementing the 2022 changes is writ large considering the following:

- RI JUDICIARY PRESS RELEASE. Rhode Island Judiciary Completes Phase One of Marijuana Expungement Process- 20k+ Individual Marijuana Cases Expunged to Date (6/8/23).

Among other things the press release states that "The automatic expungement of marijuana charges has been an organizational feat," said State Court Administrator Julie P. Hamil. "There has been coordination at every level of the Judiciary to execute this process in a timely and holistic fashion."

- Tom Mooney, RI courts expunge more than 23k pot cases under new legalization law. The Providence Journal (6/29/23)

Copies of both documents are available upon request.