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## Expungement of DNA samples

An expungement shall not be granted where the person has a prior conviction or a pending arrest that required the submission of a DNA sample.

### By Prosecuting Agency

If an individual:

- Is acquitted of the charges requiring them to provide a DNA sample;
- Is convicted of a lesser offense that does not require DNA submission, the person's DNA sample shall be expunged from the DNA database.

Within thirty (30) days of acquittal, the prosecuting agency shall notify the DOH of the acquittal and within thirty (30) days of notification, DOH shall destroy the person's DNA record and notify the individual of the destruction.

### By Individual who Provided Sample

If an individual:

- Completes a diversion program;
- A deferred sentence; or
- Is granted a pardon.

The individual's DNA sample must be expunged from the DNA database upon court order.

- An individual seeking an expungement in this scenario must file a motion for expungement with the Court with appropriate jurisdiction.
- The motion for expungement of the DNA sample must be served on both, the Attorney General and the arresting law enforcement agency, ten (10) days prior to the expungement hearing.
- The court must order expungement if court finds that the person has completed a diversion program, a deferred sentence or was granted a pardon.

### Legal Authority

[Rhode Island General Laws chapter 12-1.5-1](#), *et. seq.* requires the collection of a DNA sample, upon arrest, from an adult who has been arrested of a crime of violence.

[Section 12-1.5-13](#) provides for the expungement of the DNA sample upon exoneration or a conviction of a lesser offense.