
OLR Bill Analysis

sSB 1019 (File 613, as amended by Senate "A")*

AN ACT CONCERNING THE BOARD OF PARDONS AND PAROLES, ERASURE OF CRIMINAL RECORDS FOR CERTAIN MISDEMEANOR AND FELONY OFFENSES, PROHIBITING DISCRIMINATION BASED ON ERASED CRIMINAL HISTORY RECORD INFORMATION AND CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO MISDEMEANOR SENTENCES.

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BACKGROUND

SUMMARY

This bill establishes a process to erase records of certain criminal convictions after a specified period following the person's most recent conviction. These provisions do not apply to (1) class A, B, or C felonies (or certain unclassified felonies), (2) family violence crimes, or (3) certain crimes requiring sex offender registration.

Generally, (1) eligible misdemeanors are subject to erasure seven years after the person's most recent conviction and (2) eligible felonies are subject to erasure 10 years after the most recent conviction. For eligible convictions, erasure is automatic for offenses occurring on or after January 1, 2000; for earlier offenses, erasure occurs when the person files a petition for erasure. The bill establishes a separate process for erasing certain misdemeanor convictions committed by minors before July 1, 2012.

The bill makes other related changes, such as setting a deadline for purchasers of public criminal records to purge erased records from their files after receiving information about that erasure.

It allows a person's attorney to petition the court for the person's erased records if (1) the person is the subject of an immigration matter and (2) federal law may require disclosure of criminal history information. The court must direct that the records be made available to the attorney, to the extent the information has been retained.

The bill prohibits discrimination in various contexts based on

someone's erased criminal history record information, including in housing, employment, public accommodations, credit, and state agency services. It classifies certain types of discrimination on this basis as discriminatory practices under the jurisdiction of the Commission on Human Rights and Opportunities (CHRO).

The bill requires members of the Board of Pardons and Paroles to (1) receive annual training on the pardons process and (2) provide a written explanation when denying a pardon. It allows the Department of Emergency Services and Public Protection (DESPP) to waive certain record search fees for indigent pardon applicants.

Finally, the bill reduces the maximum sentence for misdemeanors by one day, from one year to 364 days, and makes related changes.

The bill also makes various minor, technical, and conforming changes.

*Senate Amendment "A" (1) removes class C felonies and additional unclassified felonies from the bill's record erasure provisions, (2) adds the provisions allowing attorneys to petition the court for their clients' erased records for immigration purposes, and (3) makes conforming changes.

EFFECTIVE DATE: Various; see below.

§ 1 — BOARD OF PARDONS AND PAROLES TRAINING

Expands required annual training for Board of Pardons and Paroles members to include the pardons process and collateral consequences of having a criminal record

The bill requires members of the Board of Pardons and Paroles to take annual training on the pardons process, including information on the collateral consequences of having a criminal record (such as when applying for housing or employment).

Under existing law, board members must take annual training in the criminal justice and parole systems, including factors in granting parole, victims' rights and services, reentry strategies, risk assessment, case management, and mental health issues.

EFFECTIVE DATE: July 1, 2021

§ 2 — WRITTEN EXPLANATION FOR PARDON DENIALS

Prohibits the Board of Pardons and Paroles from denying a pardon without providing a written statement explaining the reasons for the denial

The bill prohibits the Board of Pardons and Paroles from denying a pardon application unless the board provides the applicant a written statement (1) listing the factors considered to determine whether an applicant qualifies for a pardon and (2) explaining which factors the applicant did not satisfy.

Under existing law, the board's regulations must require board members in pardons hearings to issue written statements of the reasons for rejecting a pardon application (CGS § 54-124a(j); see Conn. Agencies Regs. § 54-124a(j)(3)-1).

EFFECTIVE DATE: January 1, 2023

§§ 3, 4 & 8 — ERASURE OF CERTAIN CONVICTION RECORDS

Establishes a process to erase conviction records for misdemeanors and certain felonies after a specified period following the person's most recent conviction, except for family violence crimes or certain crimes requiring sex offender registration; establishes a separate process for erasing misdemeanor convictions committed by minors before July 1, 2012; allows attorneys for individuals subject to immigration matters to petition for their clients' erased records; makes minor changes to existing record erasure laws

The bill establishes a process to erase records of most misdemeanor convictions and certain felony convictions after a specified period following the person's most recent conviction. The erasure applies to (1) related police, court, and prosecutor records (including any prosecuting grand jury) and (2) records held by the Board of Pardons and Paroles regarding court obligations arising from the conviction.

These erasure provisions generally apply to (1) classified or unclassified misdemeanors; (2) class D or E felonies; or (3) unclassified felonies with up to five-year prison terms. The bill excludes (1) family violence crimes or (2) nonviolent or violent sexual offenses requiring sex offender registration (see BACKGROUND).

Under the bill, these convictions are eligible for erasure after the following periods have passed since the person's most recent

conviction for any crime:

1. seven years, for misdemeanors; and
2. 10 years, for (a) class D or E felonies or (b) unclassified felonies with prison terms of five years or less.

In each case, the periods are calculated from the date the court entered the person's most recent conviction for any crime (with an exception for certain drug possession crimes – see below).

Under the bill, the records are erased automatically for offenses that occurred on or after January 1, 2000. For offenses before then, the records are erased when the person files a petition on a form prescribed by the Office of the Chief Court Administrator.

The bill specifies that these provisions do not (1) limit any other procedure for erasure of criminal history record information or (2) prohibit someone from participating in any such procedure, even if that person's records have been erased under the bill's procedure.

As explained below, the bill establishes a separate process for erasing misdemeanor convictions committed by minors before July 1, 2012.

The bill also makes conforming changes.

EFFECTIVE DATE: January 1, 2023

DMV Records

The bill specifies that it does not require the Department of Motor Vehicles (DMV) to erase criminal history record information from operators' driving records. It requires DMV, when applicable, to make this information available through the Commercial Driver's License Information System.

Certain Drug Possession Convictions

Under the bill, if a person was convicted for certain illegal drug possession offenses before October 1, 2015, that conviction is not

considered as a most recent offense when evaluating whether enough time has passed for a person's conviction to qualify for erasure. Generally, this applies to convictions for possessing (1) less than four ounces of cannabis or (2) any amount of non-narcotic or non-hallucinogenic drugs.

(Effective October 1, 2015, PA 15-2, June Special Session (§ 1) replaced the prior penalty for drug possession crimes, which punished most types of illegal drug possession as felonies. It created a new structure that generally punishes possession of half an ounce or more of cannabis or any amount of another illegal drug as a class A misdemeanor.)

Certain Misdemeanor Convictions for Minors (§ 3(f))

Under existing law, 17 is the maximum age of juvenile court jurisdiction. Specifically, 16-year-olds were transferred to juvenile jurisdiction starting July 1, 2010, and 17-year-olds were transferred starting July 1, 2012.

The bill establishes a separate process for erasure of misdemeanor convictions for crimes committed before July 1, 2012, by individuals under age 18 at the time of the offense. These provisions apply to related police, court, and prosecutor records. But they do not apply if the person was convicted for multiple charges in the case and at least one is not eligible for erasure. This is an exception to the general rule for record erasure in multi-count cases (see below).

For these offenses committed from January 1, 2000, through June 30, 2012, if the records are electronic (other than scanned copies of physical documents), they must be erased; otherwise, they are deemed erased by operation of law. The bill excludes from these procedures (1) motor vehicle offenses; (2) violations under Title 14 (motor vehicle and driving laws); and (3) offenses for failing to pay the fine and related fees, plead not guilty, or appear in court for an infraction or a violation that is subject to infraction procedures.

For misdemeanor offenses committed before January 1, 2000, by

someone under age 18, the person may request the erasure by filing a petition with the Superior Court where the conviction occurred. The court must then direct the records to be erased.

General Provisions (§ 3(g)-(i), (k)-(l))

Under the bill, various existing provisions on criminal record erasure in some circumstances (e.g., following a dismissal, not guilty finding, or pardon) also apply to the bill's new erasure provisions, as applicable.

For example:

1. no fees may be charged for any record erasure petition;
2. anyone whose records are erased under these provisions is deemed to have never been arrested for those charges under law and may swear to that under oath;
3. if the case contained multiple charges and only some are entitled to erasure, electronic records released to the public must be erased to the extent they reference charges entitled to erasure; and
4. these record erasure laws do not apply to court records and transcripts prepared by official court reporters, assistant court reporters, and monitors.

Generally, the court clerk or law enforcement agencies with information in these erased records must not disclose information pertaining to the erased charges. But the person whose charges were erased can obtain this information, by submitting satisfactory proof of his or her identity under guidelines prescribed by the Office of the Chief Court Administrator. The clerk must provide adequate measures to safeguard against unauthorized access to, or dissemination of, erased records.

The court clerk must forward a notice of the erasure to applicable law enforcement agencies directing that their records about the case be

erased. Under the bill, the clerk must also forward similar notice to the appropriate prosecutors for misdemeanors committed by minors between January 1, 2000, and June 30, 2012.

The court must disclose erased criminal records (unless they have been destroyed) in limited circumstances, such as to the prosecutor and defense counsel when the records are connected to a perjury charge that the prosecutor alleges to have arisen from testimony at trial.

Petition for Return of Records for Immigration Matters (§ j)

The bill allows a person's attorney to petition the Superior Court for the client's erased records if the client is the subject of an immigration matter and federal law may require disclosure of criminal history information. This applies to Connecticut convictions that were erased under existing law or the bill's new procedures.

The attorney must file the petition with the Superior Court (1) where the conviction occurred, (2) that has custody of the conviction records, or (3) where venue would currently exist if the conviction took place in certain courts that are now obsolete.

The court must direct that the police, court, and prosecutor records be made available to the attorney, to the extent the information has been retained.

Erasure of Records Following Decriminalization (§ 4)

Under existing law, upon the petition of someone convicted for an act that was subsequently decriminalized, the court must order the physical destruction of all related police, court, and prosecution records. The bill specifies that the court must order this immediately upon receiving the petition.

Court Location for Certain Existing Erasure Laws (§§ 3 & 4)

The bill also specifies that, for various record erasure provisions under existing law, the petitioner must file the request with the Superior Court where venue would currently exist if the conviction took place in certain courts that are now obsolete. Current law instead

requires these petitions to be filed with the judicial branch records center.

These provisions apply to petitions for erasure of (1) convictions for decriminalized offenses and (2) records for certain older cases that are subject to erasure under existing law (e.g., dismissals or pardons).

The bill also makes related minor changes.

§ 5 — AUTOMATED PROCESSES FOR RECORD ERASURE

Requires DESPP, in consultation with the judicial branch and the CJIS governing board, to implement automated processes for criminal record erasure; allows DESPP to post information online or otherwise distribute information about which records are subject to erasure

The bill requires DESPP, in consultation with the judicial branch and the Criminal Justice Information System Governing Board, to develop and implement automated processes for criminal record erasure. This includes (1) the bill's provisions for erasure of certain convictions after a specified period as described above and (2) certain erasure provisions under existing law (e.g., following a dismissal or pardon).

It allows DESPP, within available appropriations, to post information on its website or otherwise disseminate information on which records are subject to erasure.

It also specifies that these provisions do not require the destruction of paper records.

EFFECTIVE DATE: January 1, 2023

§ 6 — RECORD PURCHASERS AND DISCLOSURE

Extends certain requirements for purchasers of public criminal records to cover records purchased from all criminal justice agencies, not just the judicial branch; sets a 30-day deadline for these purchasers to update their records after receiving information on certain records' erasure

Current law establishes certain requirements that people who purchase public criminal records from the judicial branch must meet before disclosing these records. The bill expands these provisions to also cover records purchased from other criminal justice agencies (e.g.,

the State Police, Department of Motor Vehicles, or Department of Correction). It also specifies that these requirements apply to background screening providers and similar data-based services or companies, in addition to consumer reporting agencies as under current law.

Under existing law, the judicial branch must make information (such as docket numbers) on erased records available to these purchasers, to allow them to identify and permanently delete these records. Currently, before disclosing the records, the person must purchase from the judicial branch any updated public criminal records or information available to comply with the law, either on a monthly basis or on another schedule the judicial branch establishes. As noted above, the bill extends these provisions to other criminal justice agencies.

Current law also requires these purchasers to update their records before disclosing them to permanently delete any erased records. The bill requires them to do this within 30 days after receiving information on erased records.

As under existing law, the purchaser may not further disclose erased records.

EFFECTIVE DATE: January 1, 2023

§ 7 — CRIMINAL HISTORY SEARCH FEE WAIVER

Allows DESPP to waive the criminal history search fee for indigent pardon applicants

The bill allows DESPP to waive the \$75 fee for a criminal history information record search for pardon applicants requesting the search in connection with their application. It requires applicants seeking a waiver to complete a DESPP-prescribed form indicating their indigency.

EFFECTIVE DATE: July 1, 2021

§§ 9-32 & 34 — DISCRIMINATION BASED ON ERASED CRIMINAL INFORMATION

Prohibits discrimination in various contexts based on someone's erased criminal history record information; classifies certain types of discrimination on this basis as discriminatory practices under CHRO's jurisdiction; makes related changes

The bill prohibits various forms of discrimination based on someone's erased criminal history record information, such as in employment, public accommodations, the sale or rental of housing, the granting of credit, and several other areas.

In several cases, it classifies discrimination based on these erased records as a "discriminatory practice" under the CHRO laws. By doing so, the bill allows individuals aggrieved by these violations, or CHRO itself, to file a complaint with CHRO alleging discrimination.

Additionally, it classifies as discriminatory employment practices certain employer actions already prohibited by law and allows aggrieved individuals to file a CHRO complaint or lawsuit (see § 15 below).

EFFECTIVE DATE: January 1, 2023, except for certain provisions on (1) discriminatory practices within CHRO jurisdiction (§§ 11, 12, 16, 17, 23, 24 & 26) and (2) state agency discrimination (§§ 18-22), which are effective October 1, 2021.

Erased Records Defined (§ 10)

The bill defines "criminal history record information" as court records and information obtained from the judicial branch or any criminal justice agency relating to (1) arrests, releases, detentions, indictments, information, or other formal criminal charges; (2) any events and outcomes arising from them, including pleas, trials, sentences, appeals, incarcerations, correctional supervision, paroles and releases, or outstanding judgments; and (3) any other conviction information.

"Erased criminal history record information" is (1) the above information that has been erased under the bill or existing law, (2) information related to people granted youthful offender status, or (3) continuances of criminal cases that are more than 13 months old.

Discriminatory Practices Under CHRO Statutes

Under the bill, the following types of discrimination are classified as discriminatory practices subject to CHRO jurisdiction. These provisions apply starting January 1, 2023.

Deprivation of Rights (§ 11). The bill prohibits depriving someone of rights, privileges, or immunities secured or protected by state or federal laws or constitutions, or causing this to occur, based on a person’s erased criminal history record information.

Housing (§ 12). The bill generally prohibits the following kinds of housing discrimination based on the erased criminal history record of (1) a buyer or renter (or potential one as applicable); (2) anyone associated with them; or (3) someone residing in, or intending to reside in, the dwelling after it is sold, rented, or made available. Specifically, this applies to:

1. refusing to sell or rent after a person makes a bona fide offer, or refusing to negotiate for the sale or rental of a dwelling, or otherwise denying or making a dwelling unavailable;
2. discriminating in the terms, conditions, or privileges of a dwelling’s sale or rental, or in the provision of services or facilities in connection with the sale or rental;
3. making, printing, or publishing a notice, statement, or advertisement (or causing any of these to be done) about a dwelling’s sale or rental that indicates a preference, limitation, or discrimination, or an intention to make such a preference, limitation, or discrimination;
4. falsely representing to someone that a dwelling is not available for inspection, sale, or rental, a practice commonly known as “steering”; or
5. any person or entity engaging in residential real estate transactions discriminating in making a transaction available or in the transactions’ terms or conditions.

Additionally, the bill generally prohibits the following kinds of housing discrimination based on a person's erased criminal history record information:

1. inducing or attempting to induce someone, for profit, to sell or rent a dwelling by representing that people with erased criminal history record information are moving, or may move, into the neighborhood;
2. denying someone access to, or membership or participation in, a multiple-listing service, real estate brokers' organization, or other service, organization, or facility related to the business of selling or renting dwellings, or discriminating in the terms or conditions of this access, membership, or participation; or
3. coercing, intimidating, threatening, or interfering with someone's exercise or enjoyment of these rights, or taking these actions on account of the person having exercised, enjoyed, or aided or encouraged someone else in the exercise or enjoyment of these rights.

These prohibitions do not apply to (1) renting a room or rooms in a single-family home in which the owner lives or (2) a unit in a home containing up to four units if the owner lives in one.

The bill specifies that these provisions do not (1) limit any reasonable state law or municipal ordinance restricting maximum occupancy in a dwelling or (2) prohibit a property appraiser from considering factors other than someone's erased criminal history record.

Employer Actions Already Prohibited by Law (§ 15). Existing law bars employers from taking various actions in relation to job applicants' or employees' criminal history or erased criminal records.

Under current law, an applicant or employee allegedly aggrieved by a violation of these laws may file a complaint with the labor commissioner. The bill instead deems some violations to be

discriminatory employment practices under CHRO's jurisdiction. It allows allegedly aggrieved individuals to file a (1) CHRO complaint or (2) lawsuit for declaratory or injunctive relief, damages, or any other remedy allowed by law. The bill specifies that it is the individual's choice whether to file a CHRO complaint or lawsuit.

This applies to the following:

1. employers asking prospective employees about their prior arrests, criminal charges, or convictions on an initial employment application, unless the (a) employer must do so under a state or federal law or (b) prospective employee is applying for a position that requires a security or fidelity bond or an equivalent bond;
2. if an employment application includes questions on criminal history, the failure to contain certain disclosures in clear and conspicuous language, such as that the applicant is not required to disclose erased records and an explanation of what those records are; and
3. employers (or their agents or designees) denying employment to someone, or discharging or discriminating against an employee, based solely on erased criminal records or a prior conviction for which the person (before employment) received a provisional pardon or certificate of rehabilitation.

The bill makes related minor and technical changes to these provisions.

Other Employment Provisions (§ 16). The bill prohibits employers or their agents, representatives, or designees from discriminating against someone in pay or employment terms, conditions, or privileges based on the person's erased criminal history record information. This applies to any employer with at least one employee, including the state or municipal employers.

The bill also prohibits the following kinds of employment-related

discrimination based on a person's erased criminal history record information:

1. employment agencies failing or refusing to properly classify or refer the person for employment or otherwise discriminating against the person;
2. labor organizations excluding the person from full membership rights, expelling the person, or discriminating in any way against a member, employer, or employee; or
3. employers, employment agencies, labor organizations, or anyone else advertising employment opportunities in a way that restricts employment and thus discriminates.

Associations of Licensed People (§ 17). The bill prohibits professional or trade associations, boards, or other organizations whose profession, trade, or occupation requires a state license, from refusing to accept someone as a member because of his or her erased criminal history record information. Violators are subject to a \$100 to \$500 fine.

Public Accommodations (§ 23). The bill prohibits anyone from denying someone, based on erased criminal record information, full and equal accommodations in any place of public accommodation, resort, or amusement (i.e., one that caters to or offers its services, facilities, or goods to the general public), subject to lawful conditions and limitations that apply alike to everyone. It further prohibits discriminating, segregating, or separating people on this basis.

State Higher Education System (§§ 24 & 25). The bill prohibits the state higher education system from denying someone an educational opportunity based on erased criminal history record information.

Additionally, it requires the state higher education system's policies to have the goal of ensuring that no qualified person is denied the opportunity for higher education due to erased criminal history record

information. (The bill does not make a violation of this latter provision a discriminatory practice under the CHRO laws.)

Credit (§ 26). The bill prohibits a creditor from discriminating against an adult in a credit transaction based on his or her erased criminal record history information.

Other Forms of Discrimination

The bill also addresses discrimination in the following areas that are not discriminatory practices under CHRO jurisdiction.

Connecticut Housing Finance Authority (§ 13). Under the bill, the Connecticut Housing Finance Authority must require that the occupancy of all housing it finances or otherwise assists be open to all people regardless of their erased criminal history record information. It also requires the contractors and subcontractors who build or rehabilitate this housing to take affirmative action to provide equal employment opportunity without discriminating as to erased criminal history record information.

Municipal Housing Finance Assistance (§ 14). The bill requires municipalities to take all necessary steps to ensure that the occupancy of all housing financed or assisted under the Municipal Housing Finance Assistance Act is open to all people, regardless of their erased criminal history record information.

State Agencies (§§ 18-22 & 29). Starting January 1, 2023, the bill prohibits several types of discrimination by state agencies regarding erased criminal history record information. More specifically, it:

1. requires state officials and supervisory personnel to recruit, appoint, assign, train, evaluate, and promote state personnel based on merit and qualifications, without regard to their erased criminal history record information (§ 18);
2. prohibits state departments, boards, or agencies from granting, denying, or revoking a person's license or charter on the grounds of his or her erased criminal history record

information, except DMV may consider this information to the extent required by federal regulations on commercial driver's licenses (49 § C.F.R. 384) (§ 19);

3. requires all educational, counseling, and vocational guidance programs and all apprenticeship and on-the-job training programs of state agencies, or in which they participate, to be open to all qualified people, without regard to their erased criminal history record information (§ 20);
4. prohibits someone's erased criminal history record information from being considered as a limiting factor in state-administered programs involving the distribution of funds to qualify applicants for benefits authorized by law (§ 21); and
5. requires state agency services to be performed without discrimination based on erased criminal history record information (§ 22).

Additionally, the bill specifically prohibits state departments, boards, or agencies from allowing any newly prohibited types of discrimination described above that the bill classifies as discriminatory practices under the CHRO laws (e.g., housing discrimination based on erased criminal records).

Auto Insurance (§ 27). The bill prohibits auto insurance companies from declining, canceling, or refusing to renew auto insurance policies solely based on erased criminal history record information, unless the company is part of an insurer group and another member of the group would not decline a similar application on this basis.

Life Insurance (§ 28). The bill prohibits life insurers from making any distinction or discrimination against a person in premiums, rates, or the amount payable on a policy because of the person's erased criminal history record information.

Licensure or Employment Denial Based on Criminal History (§§ 30-32)

Current law declares that it is the state's policy to encourage employers to give favorable consideration to hiring people with criminal convictions. The bill specifies that this policy must not be construed to allow employers to (1) refuse to hire, (2) fire, or (3) discriminate against someone in pay or employment terms, based on that person's erased criminal history record information.

Generally, existing law (1) allows state agencies to deny employment or a credential to a person with a prior felony conviction if he or she is found unsuitable after considering certain factors; (2) bars employers from inquiring about prospective employees' criminal history unless the law specifically disqualifies applicants with certain criminal histories; and (3) bars the state from distributing erased criminal records, or records of arrests not leading to convictions, in connection with employment applications or credentialing.

The bill specifies that these provisions do not allow employers to discriminate based on erased criminal history information, as set forth above. The bill also updates terminology in these statutes and makes minor and technical changes.

§ 33 — CRIMINAL JUSTICE AGENCIES

Adds DESPP and the Division of Criminal Justice to the list of "criminal justice agencies" for the purpose of determining access to criminal records

The bill specifically lists DESPP and the Division of Criminal Justice as "criminal justice agencies" for the purpose of determining access to criminal records. Under existing law, the State Police and state's attorneys, assistant state's attorneys and deputy assistant state's attorneys, and various other agencies are already classified as criminal justice agencies for this purpose.

By law, criminal justice agencies have access to criminal history record information. The law establishes various duties for criminal justice agencies regarding this information. For example, if they collect, store, or disseminate criminal history record information they must institute a process to minimize the possibility of recording and storing inaccurate information, and upon discovering any inaccuracy, notify

all other agencies known to have received it (CGS § 54-142h(a)).

Among other things, existing law authorizes these agencies to reject for employment, for good cause, applicants for positions that would be authorized to directly access criminal history record information (CGS § 54-142i).

EFFECTIVE DATE: January 1, 2023

§ 35 — MISDEMEANOR SENTENCES

Reduces the maximum sentence for misdemeanors by one day, from one year to 364 days, and makes related changes

The bill reduces the maximum sentence for misdemeanors by one day, from one year to 364 days. Currently, the maximum sentence for a class A misdemeanor, and certain unclassified misdemeanors, is one year (see BACKGROUND, *Federal Immigration Law*).

The bill provides that if someone was sentenced to a one-year prison term for a misdemeanor, the conviction must still be deemed a misdemeanor after the maximum term is reduced to 364 days as provided above.

It (1) allows anyone previously sentenced to a one-year prison term for a misdemeanor to apply to court to modify the sentence to 364 days and (2) requires the court to issue the modification unless the sentencing records have been destroyed. The person must apply to the court that entered the judgment of conviction, and may apply at any time (thus, even after completing the sentence).

The bill applies regardless of when the person was sentenced.

EFFECTIVE DATE: October 1, 2021

BACKGROUND

Criminal Conviction Erasure

Under existing law, a person convicted of a crime who seeks to have the conviction and associated records erased must apply to the Board of Pardons and Paroles for an absolute pardon. Generally, the board cannot accept an application for a pardon until five years after a felony

conviction and three years after a misdemeanor conviction. The board takes certain factors into consideration in determining whether to grant pardons. Generally, the board must hold hearings before granting a pardon; some non-violent convictions are eligible for an expedited process that does not involve a hearing (CGS § 54-130a et seq.).

A convicted offender who is not incarcerated may also apply for a certificate of employability to relieve him or her from certain barriers or forfeitures related to employment or licensure. This certificate does not affect the individual's criminal record (CGS §§ 54-108f and -130e).

Family Violence Crimes

By law, a "family violence crime" is a crime, other than a delinquent act, that involves an act of family violence to a family or household member. It does not include acts by parents or guardians disciplining minor children unless these acts constitute abuse.

Generally, "family violence" is physical harm or the threat of violence between family or household members, including stalking or a pattern of threatening, but excluding verbal abuse or arguments unless there is present danger and likelihood of physical violence (CGS § 46b-38a).

Nonviolent Sexual Offenses and Sexually Violent Offenses

Under Connecticut law, certain criminal convictions require sex offender registration. These include, among others, "nonviolent sexual offenses" and "sexually violent offenses."

Nonviolent sexual offenses include 4th degree sexual assault and certain cases of voyeurism. Sexually violent offenses include several crimes, such as (1) 1st degree aggravated sexual assault; (2) 3rd degree sexual assault with a firearm; and (3) certain cases of 1st, 2nd, and 3rd degree sexual assault (CGS § 54-250).

Federal Immigration Law

Federal law lists certain categories of crimes that render a non-citizen removable from the United States or otherwise affect

immigration status. In some situations, immigration consequences are triggered based on whether the crime was punishable by at least one year in prison.

For example, a non-citizen may be removed following conviction for (1) a “crime involving moral turpitude” committed within five years after admission (or 10 years in some cases) if the maximum sentence for the crime is at least one year, or (2) an “aggravated felony” committed at any time after admission (8 U.S.C. § 1227(a)(2)). Aggravated felonies include, among others, certain offenses with a sentence of at least one year, regardless of the offense’s classification under state law (8 U.S.C. § 1101(a)(43)).

Related Bills

sSB 888 (File 569, §§ 8-10), reported favorably by the Judiciary Committee, (1) provides for the erasure of certain cannabis-related convictions and certain other convictions for possessing non-narcotic drugs and (2) includes provisions similar to ones in this bill regarding purchasers of public criminal records.

sHB 6377 (File 462, §§ 33 & 34), reported favorably by the Labor and Public Employees Committee, provides for the erasure of certain convictions for possessing cannabis or other non-narcotic drugs.

sHB 6474 (File 386), reported favorably by the Labor and Public Employees Committee, generally makes it a discriminatory practice for employers with at least three employees to deny employment to someone solely because of their “criminal history record information” (regardless of whether the records have been erased), and similarly makes it a discriminatory practice for state licensing agencies to deny an occupational license, permit, certificate, or registration to someone solely because of their criminal records.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 23 Nay 14 (04/05/2021)

Appropriations Committee

Joint Favorable

Yea 35 Nay 13 (05/10/2021)