



General Assembly

Amendment

January Session, 2021

LCO No. 8782



Offered by:

SEN. KISSEL, 7th Dist.

SEN. SAMPSON, 16th Dist.

To: Subst. Senate Bill No. 1019

File No. 613

Cal. No. 349

"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."

1 Strike section 3 in its entirety and insert the following in lieu thereof:

2 "Sec. 3. Section 54-142a of the general statutes is repealed and the
3 following is substituted in lieu thereof (*Effective January 1, 2023*):

4 (a) Whenever in any criminal case, on or after October 1, 1969, the
5 accused, by a final judgment, is found not guilty of the charge or the
6 charge is dismissed, all police and court records and records of any
7 state's attorney pertaining to such charge shall be erased upon the
8 expiration of the time to file a writ of error or take an appeal, if an appeal
9 is not taken, or upon final determination of the appeal sustaining a
10 finding of not guilty or a dismissal, if an appeal is taken. Nothing in this

11 subsection shall require the erasure of any record pertaining to a charge
12 for which the defendant was found not guilty by reason of mental
13 disease or defect or guilty but not criminally responsible by reason of
14 mental disease or defect.

15 (b) Whenever in any criminal case prior to October 1, 1969, the
16 accused, by a final judgment, was found not guilty of the charge or the
17 charge was dismissed, all police and court records and records of the
18 state's or prosecuting attorney or the prosecuting grand juror pertaining
19 to such charge shall be erased by operation of law and the clerk or any
20 person charged with the retention and control of such records shall not
21 disclose to anyone their existence or any information pertaining to any
22 charge so erased; provided nothing in this subsection shall prohibit the
23 arrested person or any one of his heirs from filing a petition for erasure
24 with the court granting such not guilty judgment or dismissal, or, where
25 the matter had been before a municipal court, a trial justice, the Circuit
26 Court or the Court of Common Pleas [with the records center of the
27 Judicial Department] or in the Superior Court where venue would exist
28 for criminal prosecution, and thereupon all police and court records and
29 records of the state's attorney, prosecuting attorney or prosecuting
30 grand juror pertaining to such charge shall be erased. Nothing in this
31 subsection shall require the erasure of any record pertaining to a charge
32 for which the defendant was found not guilty by reason of mental
33 disease or defect.

34 (c) (1) Whenever any charge in a criminal case has been nolle in the
35 Superior Court, or in the Court of Common Pleas, if at least thirteen
36 months have elapsed since such nolle, all police and court records and
37 records of the state's or prosecuting attorney or the prosecuting grand
38 juror pertaining to such charge shall be erased, except that in cases of
39 nolles entered in the Superior Court, Court of Common Pleas, Circuit
40 Court, municipal court or by a justice of the peace prior to April 1, 1972,
41 such records shall be deemed erased by operation of law and the clerk
42 or the person charged with the retention and control of such records
43 shall not disclose to anyone their existence or any information
44 pertaining to any charge so erased, provided nothing in this subsection

45 shall prohibit the arrested person or any one of his heirs from filing a
46 petition to the court [or to the records center of the Judicial Department,
47 as the case may be,] to have such records erased, in which case such
48 records shall be erased.

49 (2) Whenever any charge in a criminal case has been continued at the
50 request of the prosecuting attorney, and a period of thirteen months has
51 elapsed since the granting of such continuance during which period
52 there has been no prosecution or other disposition of the matter, the
53 charge shall be nolledd upon motion of the arrested person and such
54 erasure may thereafter be effected or a petition filed therefor, as the case
55 may be, as provided in this subsection for nolledd cases.

56 (d) (1) Whenever prior to October 1, 1974, any person who has been
57 convicted of an offense in any court of this state has received an absolute
58 pardon for such offense, such person or any one of his heirs may, at any
59 time subsequent to such pardon, file a petition with the [superior court]
60 Superior Court at the location in which such conviction was effected, or
61 with the [superior court] Superior Court at the location having custody
62 of the records of such conviction or [with the records center of the
63 Judicial Department] if such conviction was in the Court of Common
64 Pleas, Circuit Court, municipal court or by a trial justice court, in the
65 Superior Court where venue would exist for criminal prosecution, for
66 an order of erasure, and the Superior Court [or records center of the
67 Judicial Department] shall direct all police and court records and
68 records of the state's or prosecuting attorney pertaining to such [case]
69 offense to be erased.

70 (2) Whenever such absolute pardon was received on or after October
71 1, 1974, such records shall be erased.

72 (e) (1) Any individual who has ever been convicted of a misdemeanor
73 in any court of this state may, provided at least three years have passed
74 following the completion of any sentence imposed as a result of such
75 individual's most recent conviction for a misdemeanor or felony offense,
76 file a petition with the Superior Court at the location in which the most

77 recent misdemeanor conviction was effected, or with the Superior Court
78 at the location having custody of the records of such conviction or if such
79 conviction was in the Court of Common Pleas, Circuit Court, municipal
80 court or by a trial justice court, in the Superior Court where venue
81 would exist for criminal prosecution, for an order of erasure, and if such
82 petition is in order, the Superior Court shall issue such order of erasure
83 and direct all police and court records and records of the state's or
84 prosecuting attorney pertaining to each such misdemeanor offense,
85 except any misdemeanor that is a family violence crime, as defined in
86 section 46b-38a, or that is a nonviolent sexual offense or a sexually
87 violent offense, each as defined in section 54-250, to be erased.

88 (A) Notice of the erasure shall immediately be sent to all persons,
89 agencies, officials or institutions known to have information pertaining
90 to the criminal history record information. Reasonable efforts shall be
91 made to send notice of the erasure to the individual whose records have
92 been erased not later than thirty calendar days after such erasure;

93 (B) If an individual has been convicted of an offense in any court in
94 this state and such offense has been decriminalized subsequent to the
95 date of such conviction, such conviction shall not be considered when
96 evaluating such individual's criminal history record information for the
97 purposes of this subsection; and

98 (C) Erasure under this subsection shall not occur in the case of any
99 individual who has pending charges or an open criminal case in any
100 jurisdiction.

101 (2) Nothing in this subsection shall limit any other procedure for
102 erasure of criminal history record information or prohibit an individual
103 from participating in any such procedure, even if such individual's
104 criminal history record information has been erased under this
105 subsection.

106 [(e)] (f) (1) The clerk of the court [or any person charged with
107 retention and control of such records in the records center of the Judicial
108 Department] or any law enforcement agency having information

109 contained in such erased records shall not disclose to anyone, except the
110 subject of the record, upon submission pursuant to guidelines
111 prescribed by the Office of the Chief Court Administrator of satisfactory
112 proof of the subject's identity, information pertaining to any charge
113 erased under any provision of this section and such clerk or person
114 charged with the retention and control of such records shall forward a
115 notice of such erasure to any law enforcement agency to which he
116 knows information concerning the arrest has been disseminated and
117 such disseminated information shall be erased from the records of such
118 law enforcement agency. Such clerk or such person, as the case may be,
119 shall provide adequate security measures to safeguard against
120 unauthorized access to or dissemination of such records or upon the
121 request of the accused cause the actual physical destruction of such
122 records, except that such clerk or such person shall not cause the actual
123 physical destruction of such records until three years have elapsed from
124 the date of the final disposition of the criminal case to which such
125 records pertain.

126 [(2) No fee shall be charged in any court with respect to any petition
127 under this section.]

128 [(3)] (2) Any person who shall have been the subject of such an
129 erasure shall be deemed to have never been arrested within the meaning
130 of the general statutes with respect to the proceedings so erased and
131 may so swear under oath.

132 [(f)] (g) Upon motion properly brought, the court or a judge of such
133 court, if such court is not in session, shall order disclosure of such
134 records (1) to a defendant in an action for false arrest arising out of the
135 proceedings so erased, or (2) to the prosecuting attorney and defense
136 counsel in connection with any perjury charges which the prosecutor
137 alleges may have arisen from the testimony elicited during the trial, or
138 any false statement charges, or any proceeding held pursuant to section
139 53a-40b, or (3) counsel for the petitioner and the respondent in
140 connection with any habeas corpus or other collateral civil action in
141 which evidence pertaining to a nolle or dismissed criminal charge may

142 become relevant. Such disclosure of such records is subject also to any
143 records destruction program pursuant to which the records may have
144 been destroyed. The jury charge in connection with erased offenses may
145 be ordered by the judge for use by the judiciary, provided the names of
146 the accused and the witnesses are omitted therefrom.

147 ~~[(g)]~~ (h) The provisions of this section shall not apply to any police or
148 court records or the records of any state's attorney or prosecuting
149 attorney with respect to any information or indictment containing more
150 than one count (1) while the criminal case is pending, or (2) when the
151 criminal case is disposed of unless and until all counts are entitled to
152 erasure in accordance with the provisions of this section, except that
153 when the criminal case is disposed of, electronic records or portions of
154 electronic records released to the public that reference a charge that
155 would otherwise be entitled to erasure under this section shall be erased
156 in accordance with the provisions of this section. Nothing in this section
157 shall require the erasure of any information contained in the registry of
158 protective orders established pursuant to section 51-5c. For the purposes
159 of this subsection, "electronic record" means any police or court record
160 or the record of any state's attorney or prosecuting attorney that is an
161 electronic record, as defined in section 1-267, or a computer printout.

162 ~~[(h)]~~ (i) For the purposes of this ~~[section]~~ chapter, "court records" shall
163 not include a record or transcript of the proceedings made or prepared
164 by an official court reporter, assistant court reporter or monitor.

165 (j) No fee shall be charged in any court with respect to any petition
166 under this section.

167 (k) Records erased pursuant to this section shall not be erased or
168 destroyed for purposes of the pretrial family violence education
169 program under section 46b-38c or accelerated rehabilitation under
170 section 54-56e."