



Substitute House Bill No. 6918

Public Act No. 23-134

AN ACT CONCERNING ERASURE OF CRIMINAL HISTORY RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (e) of section 54-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(e) (1) (A) Except as provided in [subdivision (2) and subdivision] subdivisions (2) and (3) of this subsection, whenever any person has been convicted in any court of this state of a classified or unclassified misdemeanor offense or a motor vehicle violation for which a maximum term of imprisonment of not more than one year could have been imposed, or a class D or E felony or an unclassified felony offense [carrying a] for which a maximum term of imprisonment of not more than five years could have been imposed or a motor vehicle violation for which a maximum term of imprisonment greater than one year and not more than five years could have been imposed, any police or court record and record of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such conviction, or any record pertaining to court obligations arising from such conviction held by the Board of Pardons and Paroles shall be erased as follows: [(A)] (i) For any classified or unclassified misdemeanor offense or a motor vehicle

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violation for which a maximum term of imprisonment of not more than one year could have been imposed, such records shall be erased seven years from the date on which the court entered the convicted person's most recent judgment of conviction [(i)] (I) by operation of law, if such offense occurred on or after January 1, 2000, or [(ii)] (II) upon the filing of a petition on a form prescribed by the Office of the Chief Court Administrator, if such offense occurred prior to January 1, 2000; and [(B)] (ii) for any class D or E felony, [or an] unclassified felony offense [carrying a] for which a maximum term of imprisonment of not more than five years could have been imposed or a motor vehicle violation for which a maximum term of imprisonment in excess of one year and not more than five years could have been imposed, such records shall be erased ten years from the date on which the court entered the convicted person's most recent judgment of conviction [(i)] (I) by operation of law, if such offense occurred on or after January 1, 2000, or [(ii)] (II) upon the filing of a petition on a form prescribed by the Office of the Chief Court Administrator, if such offense occurred prior to January 1, 2000.

(B) For purposes of subparagraph (A) of this subdivision, the classification of the offense, and the maximum sentence that could have been imposed for a conviction of such offense, shall be determined based on the law that was in effect at the time the offense was committed.

(2) Convictions for the following offenses shall not be eligible for erasure pursuant to this subsection:

(A) Any conviction, on or after January 1, 2000, designated as a family violence crime, as defined in section 46b-38a;

(B) Any conviction for an offense that is a nonviolent sexual offense or a sexually violent offense, each as defined in section 54-250;

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(C) Any conviction for [a class D felony offense that is] a violation of section 29-33, 53a-60a, 53a-60b, 53a-60c, 53a-61a, 53a-64bb, 53a-64cc, 53a-72a, 53a-90a, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196d, 53a-196f, 53a-211, 53a-212, 53a-216, 53a-217, 53a-217a, 53a-217c, 53a-322, 53a-323, 54-251, 54-252, 54-253 or 54-254 or subdivision (1) of subsection (a) of section 53a-189a; or

(D) [Any conviction for a class A misdemeanor offense that is a violation of section 53a-61a, 53a-64cc or 53a-323.] Any conviction for a violation of section 14-227a within the preceding ten years of any arrest for the violation of section 14-227a.

(3) The provisions of subdivision (1) of this subsection shall not apply to any conviction for any offense until the defendant: [has completed serving the sentence imposed for any offense or offenses for which the defendant has been convicted.]

(A) Has completed serving any period of incarceration, parole, special parole, medical parole, compassionate parole or transitional supervision associated with any sentence for such offense and any other offense for which the defendant has been convicted on or after January 1, 2000, in this state;

(B) Has completed serving any period of probation for any sentence for any crime or crimes for which the defendant has been convicted on or after January 1, 2000, in this state; and

(C) Is not the subject of any pending state criminal charge in this state.

(4) If a person has been convicted of a violation of subsection (c) of section 21a-279 prior to October 1, 2015, such conviction shall not be considered as a most recent offense when evaluating whether a sufficient period of time has elapsed for an offense to qualify for erasure pursuant to this subsection.

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(5) Nothing in this subsection shall limit any other procedure for erasure of criminal history record information, as defined in section 54-142g, or prohibit a person from participating in any such procedure, even if such person's criminal history record information has been erased pursuant to this section.

(6) Nothing in this subsection shall be construed to require the Department of Motor Vehicles to erase criminal history record information on an operator's driving record. When applicable, the Department of Motor Vehicles shall make such criminal history record information available through the Commercial Driver's License Information System.

(7) Nothing in this subsection shall terminate a defendant's obligation to register as a person convicted of an offense committed with a deadly weapon pursuant to section 54-280a, a felony for a sexual purpose pursuant to section 54-254 or a criminal offense against a victim who is a minor pursuant to section 54-251.

(8) No erasure under this subsection shall be construed to terminate a defendant's obligation to abide by a standing criminal protective order imposed under section 53a-40e or terminate a defendant's obligation to pay any unremitted fine imposed as part of the court's sentence.

(9) Notwithstanding any provision of this section and the provisions of section 54-142c, any record required to substantiate any defendant's conviction shall be available to law enforcement, the court and the state's attorney for the purpose of (A) verifying such defendant's obligation to register pursuant to section 54-251, 54-254 or 54-280a and prosecuting any such defendant for violating any provision of such sections, and (B) verifying such defendant's obligation to abide by any standing criminal protective order imposed under section 53a-40e and prosecuting any such defendant for a violation of section 53a-223a.

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Sec. 2. Subsection (i) of section 54-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(i) ~~[(The) (1) Except as provided in subdivision (2) of this subsection, the provisions of this section shall not apply to any [police or court records or the records of any state's attorney or prosecuting attorney with respect to any information or indictment containing] criminal history record information, as defined in section 54-142g, referencing more than one count [(1)] of the criminal case or, in the case of a police record, referencing more than one defendant (A) while the criminal case is pending, or [(2)] (B) when the criminal case is disposed of unless and until all counts on such criminal case and, in the case of a police record, on the relevant criminal cases for all referenced defendants are entitled to erasure in accordance with the provisions of this section. [, except that when the]~~

~~(2) When a criminal case is disposed of, qualified electronic records or portions of qualified electronic records released to the public that reference a charge that would otherwise be entitled to erasure under this section shall be erased in accordance with the provisions of this section.~~

~~(3) Nothing in this section shall require the erasure of any information contained in the registry of protective orders established pursuant to section 51-5c, published memoranda of decision of the Superior Court or any records of the Appellate Court or Supreme Court related to matters considered by such courts.~~

~~(4) For the purposes of this subsection, ["electronic record"] "qualified electronic record" means any police or court record or the record of any state's attorney or prosecuting attorney that is an electronic record, as defined in section 1-267, or a [computer] printout of any such electronic record, but does not include any portion of a police record that is a narrative description, including, but not limited to, any such description~~

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contained in an investigative report.

Sec. 3. Subsection (l) of section 54-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(l) For the purposes of this section, "court records" shall not include a record or transcript of the proceedings made or prepared by an official court reporter, assistant court reporter or monitor or any audio or video recording of any court proceeding.

Sec. 4. Section 54-142e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2023*):

(a) Notwithstanding the provisions of subsection (g) of section 54-142a and section 54-142c, with respect to any person, including, but not limited to, a consumer reporting agency as defined in subsection (i) of section 31-51i, or a background screening provider or similar data-based service or company, that purchases records of or files mass requests under the provisions of chapter 14 for information pertaining to criminal matters of public record, as defined in said subsection (i), from the Judicial Department or any criminal justice agency pursuant to subsection (b) of section 54-142g, the department or such criminal justice agency shall make available to such person information concerning such criminal matters of public record that have been erased pursuant to section 54-142a, as amended by this act. Such information may include docket numbers or other information that permits the person to identify and permanently delete records that have been erased pursuant to section 54-142a, as amended by this act.

(b) Each person, including, but not limited to, a consumer reporting agency or background screening provider or similar data-based service or company, that has purchased records of or filed a mass request under the provisions of chapter 14 for information pertaining to criminal

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matters of public record from the Judicial Department or any criminal justice agency shall, prior to disclosing such records, (1) purchase from the Judicial Department or such criminal justice agency, on a monthly basis or on such other schedule as the Judicial Department or such criminal justice agency may establish, any updated criminal matters of public record or information available for the purpose of complying with this section, and (2) update its records of criminal matters of public record to permanently delete such erased records not later than thirty calendar days after receipt of information on the erasure of criminal records pursuant to section 54-142a, as amended by this act. Such person shall not further disclose such erased records, except to the subject of the records as required under 15 USC 1681g, as amended from time to time, or as otherwise required by applicable law. This subsection shall not apply to persons or entities filing a mass request under the provisions of chapter 14 for information pertaining to criminal matters of public record if the person or entity making the request is only obtaining information that does not personally identify the subjects of the criminal matters of public records and is not using the information for commercial purposes.

(c) If any consumer reporting agency, background screening provider or similar data-based service or company discloses an erased record in violation of subsection (b) of this section after thirty calendar days from the date such agency, provider, service or company received notice pursuant to subsection (a) of this section that such record had been erased, the Attorney General may send notice ordering such agency, provider, service or company to remove such erased record from any such disclosure not later than five business days following receipt of such order.

(d) For purposes of this section, "mass request" means a request concerning fifty or more criminal matters of public record.

(e) Any violation of any provision of this section shall be deemed an

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unfair or deceptive trade practice under subsection (a) of section 42-110b.

Sec. 5. (NEW) (*Effective from passage*) If the automated processes required to be developed under section 54-142t of the general statutes, as amended by this act, have not marked a police or court record or the record of any state's attorney or prosecuting attorney erased, or no petition has been filed seeking to have such record erased, as of July 1, 2023, the provisions of section 54-142a of the general statutes, as amended by this act, shall determine (1) whether such record is eligible or not eligible for erasure, and (2) the eligibility of defendants who must file a petition for the erasure of records, and not the provisions of section 54-142a of the general statutes, revision of 1958, revised to January 1, 2023.

Sec. 6. Section 54-142t of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Department of Emergency Services and Public Protection, in consultation with the Judicial Branch and the Criminal Justice Information System Governing Board established pursuant to section 54-142q, shall develop and implement automated processes for erasure pursuant to section 54-142a, as amended by this act.

(b) The [department may, within available appropriations, disseminate information, including posting] Commissioner of Emergency Services and Public Protection shall, not later than January 1, 2024, post information on [its] an Internet web site operated by the department, regarding records that are subject to erasure under the provisions of this section, including a list of any section of the general statutes for which a violation of such section may be subject to erasure pursuant to subsection (e) of section 54-142a, as amended by this act. The commissioner shall annually review, and if necessary, update such list.

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(c) Nothing in this section shall be construed to require the destruction of paper records.

(d) Nothing in the provisions of sections 46a-80a to 46a-80m, inclusive, or sections 8-265c, 8-315, 10a-6, 31-51i, 38a-358, 38a-447, 46a-51, 46a-74, 46a-79, 46a-80 and 46a-81 of the general statutes, revision of 1958, revised to January 1, 2023, shall be construed to make the state, any state agency, any municipality or any person liable for any action taken on the basis of criminal history record information required to be erased or deemed erased by operation of law if:

(1) Such action is taken in good faith reliance on such criminal history record information;

(2) Such criminal history record information has not yet been marked as erased by the automated system required under this section, or, in the case of a municipality or other person, such erasure marking has not been communicated to such municipality or other person; and

(3) Such action is taken before January 1, 2024.

(e) No person, prior to January 1, 2024, shall have any claim against the state or any state agency for failure to erase a record pursuant to the provisions of this section and subsection (e) of section 54-142a of the general statutes, revision of 1958, revised to January 1, 2023.

(f) On and after January 1, 2024, nothing in the provisions of sections 46a-80a to 46a-80m, inclusive, or sections 8-265c, 8-315, 10a-6, 31-51i, 38a-358, 38a-447, 46a-51, 46a-74, 46a-79, 46a-80 and 46a-81 shall be construed to make the state, any state agency, any municipality or any person liable for any action taken on the basis of criminal history record information required to be erased or deemed erased by operation of law if within the immediate thirty-day period after such records should have been marked as erased:

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(1) Such action is taken in good faith reliance on such criminal history record information; and

(2) Such criminal history record information has not yet been marked as erased by the automated system required under this section, or, in the case of a municipality or other person, such erasure marking has not been communicated to such municipality or other person.

(g) On and after January 1, 2024, if a person (1) believes any of such person's criminal history record information was required to be deemed erased by operation of law pursuant to the provisions of subsection (e) of section 54-142a, as amended by this act, and (2) submits a copy of such person's criminal history record information search demonstrating that such criminal history record information has not been marked as erased to the Department of Emergency Services and Public Protection in a form and manner determined by the department, the department shall, following a contested hearing, make a determination on whether such criminal history information should be deemed erased by operation of law. Such determination shall constitute a final decision for the purposes of the provisions of chapter 54.

Approved June 27, 2023