

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: HB-6918

Title: AN ACT CONCERNING ERASURE OF CRIMINAL HISTORY RECORDS.

Vote Date: 3/28/2023

Vote Action: Joint Favorable Substitute

PH Date: 3/22/2023

File No.:

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SPONSORS OF BILL:

Judiciary Committee

REASONS FOR BILL:

This bill seeks to address legal and policy questions statutes identified by the Criminal Justice Information System (CJIS-CT) Governing Board during the implementation of the Clean Slate program. Specifically, the bill clarifies the eligibility criteria for Clean Slate, introduces a temporary pause on erasure if an individual has pending criminal charges, maintains requirements for individuals who receive erasure to remain on Deadly Weapons or Sex Offender Registries or abide by other protective orders, expands the scope of eligible offenses to include certain motor vehicle statute violations, and specifies that eligible offenses under Clean Slate refer to historical, not current, definitions of offenses. Despite Clean Slate laws being enacted in 2022, eligible individuals have not yet been able to receive erasure due to the number of concerns over best implementation practices of the law. This bill provides codification of assumptions that will allow for records erasure to begin, and thus provide previously incarcerated individuals the opportunity to full reintegrate into their communities without being discriminated against based on their criminal histories. Allowing full reintegration into the community has been demonstrated to reduce instances of recidivism and promotes public safety as a result.

SUBSTITUTE LANGUAGE:

- In section 1, line 44 the phrase "on or after January 1, 2000" was added to clarify that the current definition of a family violence crime be used to determine who is ineligible for erasure of conviction.
 - o This change was also made on line 63.
 - o "or" was added to line 47 for clarity.

- Subdivision 9 was added as recommended by the Judicial Branch to provide law enforcement officers access to erased records of individuals required to register because of offenses committed with deadly weapons, sexual purposes, or crimes against minors to prosecute a defendant for failure to register.
- In Section 4, line 159 the phrase "person, including, but not limited to, a" was deleted for purposes of clarity.
 - On line 162 the word "person" was deleted, and the phrase "agency, provider, service, or company" was added for clarity.
 - Lines 163 – 171 were deleted and substituted to read "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 the receipt of such order. If such agency, provider, service or company further fails to remove such erased record from any such disclosure, an action for damages may be brought under chapter 735a." This addresses concerns from the Judicial Branch about their inability to oversee prior record erasure, and delegates that responsibility to the Attorney General.
- In Section 6, subsection (b) is amended to define a date of January 1st, 2024 by which the Commissioner of DESPP must post on the DESPP website information regarding the records eligible for erasure, including a list of potential violations that would be eligible under the definitions contained within this legislation.
 - Subsections (f) and (g) were added to properly define the responsibility and time frame the state, agencies, or municipalities must oblige by in the criminal records removal process. It also outlines in which cases an individual seeking erasure may be owed compensation for failure by the state, agencies, or municipalities to remove records pursuant to the provision.

RESPONSE FROM ADMINISTRATION/AGENCY:

Commissioner James Rovella, Department of Emergency Services and Public Protection (DESPP):

He testified in support of this bill as it provides clarification regarding which criminal records will be eligible for erasure under the state's existing legislation. It was stated that the two sets of legislation enacted in 2021 and 2022 automated the erasure of certain criminal records, providing relief to individuals facing barriers in education, work, and housing due to their criminal conviction. Further, it was explained that the first set of legislation involved the automatic erasure of over 42,000 cases of low-level drug possession convictions, while the second set, known as Clean Slate, had more complex eligibility rules. It was stated that the implementation process has surfaced significant questions regarding the best interpretation of the statute, and this bill would codify the eligibility for Clean Slate erasure, pauses if an individual has pending criminal charges, and the types of offenses eligible for automated erasure. It was suggested that violations of motor vehicles be eligible for automated erasure, even though they are not within the scope of the raised bill. * *The adopted amendment addresses the agency's recommendation.*

Judicial Branch, External Affairs Division: They stated that they have two concerns with this bill. The first requires the Judicial Branch and any criminal justice agency to immediately bar entities from purchasing or receiving any criminal records for at least one calendar year if such entity discloses an erased record after 60 days from the date that notice was sent that

the record has been erased. It is stated that the Judicial Branch is not an investigative body and does not have the means to police the use of prior erased records. They request not to be responsible for policing the use of erased records. The second concern stated relates to the registries and the lack of provision to permit access to the underlying offenses to prosecute a defendant for failure to register. The Judicial Branch suggests language to provide law enforcement with access to erased records for this purpose. **The adopted amendment addresses the agency's recommendations.*

Natasha Pierre, Victim Advocate, Office of the Victim Advocate (OVA): She testified in support of this bill as it makes conforming changes to the "clean slate" law passed in 2021 and amended in 2022. It is stated that there exists a gap within the pardon process, which has significant implications for victims of crime, particularly victims of domestic violence. It is further stated that this bill specifies that erasure of a criminal record does not terminate a defendant's obligation to abide by a standing criminal protective order imposed under section 53a-40e, ensuring that the SCPO will remain operable for the continued protection of victims.

NATURE AND SOURCES OF SUPPORT:

Jess Zaccagnino, Policy Counsel, American Civil Liberties Union of Connecticut (ACLU-CT): She testified in support of this bill, which seeks to increase the coverage of individuals eligible for erasure of criminal records under the Clean Slate Bill. It is stated that more than 550 legal barriers currently exist for Connecticut residents with criminal convictions, hindering their ability to contribute to society and fully participate civically. It is also stated that provisions in this bill that expand this opportunity to more previously incarcerated people are seen as a step towards reducing barriers and promoting equal opportunity.

Bridget Koestner, Policy Manager, Connecticut Alliance to End Sexual Violence (The Alliance): She testified in support of this bill and clarifications it proposes for criminal record erasure. It is stated that the bill specifies that applicants for erasure must have completed parole or probation and have no pending charges. It also stated that the bill ensures that certain offenders, such as sex offenders and those who have standing criminal protective orders or fines, will not have their records erased. It is further stated that the proposed clarifications protect victims' safety and their access to financial restitution for counseling and treatment.

Jesse Kelley, Campaign Strategist, Clean Slate Initiative (CSI): They testified in support of this bill as it clarifies eligibility for Clean Slate record relief to maximize the number of people who qualify and requires proper notice to third-party data buyers about record erasure. It is stated that the continuing punishment of an arrest or conviction record becomes indecent and creates lifetime barriers to obtaining jobs, housing, and education. It is also stated that research indicates record clearance can positively impact almost every aspect of an individual's life, and that Clean Slate policies enhance community safety by reducing the chance of recidivism. It is stated that people who have made mistakes, paid their debt to society, and now want to make a better life for themselves and those who depend on them deserve a chance to do so.

Darlene Mongeau: She testified in support of this bill as the mother of a formerly incarcerated child and tells the story of how he was accepted into the TRUE Program at

Cheshire Correctional Institution, where he received mentorship from formerly incarcerated individuals who were serving over 30 years to life sentences. It was stated that her son had engaged in risky behaviors and was incarcerated at the age of 17, interrupting his dreams of becoming a certified master mechanic. It was also stated that the TRUE Program helped him gain a better understanding of himself and provided him with positive mentors. It was stated that they support this bill, and others which propose reducing sentencing for individuals incarcerated as youth allowing them to move forward in being productive citizens.

Joan Martin: She testified in support of the intent of this bill in addressing the concerns of the Governing Board on implementing the Clean Slate legislation and has been a supporter of the legislation. However, it is stated their concern with the addition of new language which prevents the erasure of criminal records for individuals who are the subject of a pending state criminal charge. It is explained that this language goes against the legal standard of innocent until proven guilty and could create complications for the computer program being built to erase criminal records. It is suggested that it would be fairer and simpler to erase the person's existing record and start a new criminal record if the person is convicted of the pending charge.

Anne Lampert testified in support of the bill.

Phillip Kent, Board Member and Tri-Chair, Legal Reform Team, Congregations Organized for a New Connecticut (CONNECT): He testified in support of this bill as it concerns the erasure of criminal history records and aims to clarify eligibility under Clean Slate, a law that automatically expunges criminal records for those who have served their time and stayed out of trouble. It is stated that Clean Slate offers a second chance to those who have been incarcerated, and that it works better than job training alone to increase wages and reduce recidivism. It is also stated that there are racial inequities in the criminal legal system, with people of color being up to nine times more likely to be incarcerated. It is stated that this bill would ensure that commercial data buyers comply with the law and remove erased convictions from their databases within a reasonable time, and it would fix technical issues to ensure that Clean Slate is implemented smoothly and in a timely manner.

Ten other representatives of Congregations Organized for a New Connecticut (CONNECT) submitted testimony in support of this bill:

- **Kenny Foscue**
- **Richard Pearce**
- **Jacqueline Paige**
- **Michael Jacobson**
- **Beth Lazar**
- **Sarah Connolly**
- **Deborah Elkin**
- **Mari Flicker**
- **Mary Ellen Hagedus**
- **Maureen Lopes**
- **Rita Skog**

Yonatan Zamir, Staff Attorney, New Haven Legal Assistance Association (NHLAA): They testified in support of this bill because it corrects the delay in implementing the Clean

Slate law, and it is noted that many clients seeking assistance at NHLAA continue to face discrimination from landlords who reject applicants with past convictions. They shared two examples of clients who have been negatively impacted by the delay in the implementation of the Clean Slate law in Connecticut, which would have erased their criminal records. It is stated that until Clean Slate is implemented, landlords can and do continue to reject applicants with convictions, which contributes to housing instability and homelessness, making reintegration to society, getting and retaining a job, and overall health much more difficult.

NATURE AND SOURCES OF OPPOSITION:

None expressed.

Reported by: Lukas Houle

Date: April 4, 2023