



General Assembly

Raised Bill No. 5124

February Session, 2006

* _____HB05124PS_JUD030806_____*

***AN ACT CONCERNING THE APPLICABILITY OF ERASURE
STATUTES TO PEACE OFFICERS.***

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

1 Section 1. Section 54-142a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 (a) Whenever in any criminal case, on or after October 1, 1969, the
4 accused, by a final judgment, is found not guilty of the charge or the
5 charge is dismissed, all police and court records and records of any
6 state's attorney pertaining to such charge shall be erased upon the
7 expiration of the time to file a writ of error or take an appeal, if an
8 appeal is not taken, or upon final determination of the appeal
9 sustaining a finding of not guilty or a dismissal, if an appeal is taken.
10 Nothing in this subsection shall require the erasure of any record
11 pertaining to a charge for which the defendant was found not guilty by
12 reason of mental disease or defect or guilty but not criminally
13 responsible by reason of mental disease or defect.

14 (b) Whenever in any criminal case prior to October 1, 1969, the
15 accused, by a final judgment, was found not guilty of the charge or the
16 charge was dismissed, all police and court records and records of the
17 state's or prosecuting attorney or the prosecuting grand juror
18 pertaining to such charge shall be erased by operation of law and the

19 clerk or any person charged with the retention and control of such
20 records shall not disclose to anyone their existence or any information
21 pertaining to any charge so erased; provided nothing in this subsection
22 shall prohibit the arrested person or any one of his heirs from filing a
23 petition for erasure with the court granting such not guilty judgment
24 or dismissal, or, where the matter had been before a municipal court, a
25 trial justice, the Circuit Court or the Court of Common Pleas with the
26 records center of the Judicial Department and thereupon all police and
27 court records and records of the state's attorney, prosecuting attorney
28 or prosecuting grand juror pertaining to such charge shall be erased.
29 Nothing in this subsection shall require the erasure of any record
30 pertaining to a charge for which the defendant was found not guilty by
31 reason of mental disease or defect.

32 (c) Whenever any charge in a criminal case has been nolle in the
33 Superior Court, or in the Court of Common Pleas, if at least thirteen
34 months have elapsed since such nolle, all police and court records and
35 records of the state's or prosecuting attorney or the prosecuting grand
36 juror pertaining to such charge shall be erased. However, in cases of
37 nolles entered in the Superior Court, Court of Common Pleas, Circuit
38 Court, municipal court or by a justice of the peace prior to April 1,
39 1972, such records shall be deemed erased by operation of law and the
40 clerk or the person charged with the retention and control of such
41 records shall not disclose to anyone their existence or any information
42 pertaining to any charge so erased, provided nothing in this subsection
43 shall prohibit the arrested person or any one of his heirs from filing a
44 petition to the court or to the records center of the Judicial Department,
45 as the case may be, to have such records erased, in which case such
46 records shall be erased. Whenever any charge in a criminal case has
47 been continued at the request of the prosecuting attorney, and a period
48 of thirteen months has elapsed since the granting of such continuance
49 during which period there has been no prosecution or other
50 disposition of the matter, the charge shall be construed to have been
51 nolle as of the date of termination of such thirteen-month period and
52 such erasure may thereafter be effected or a petition filed therefor, as

53 the case may be, as provided in this subsection for nolled cases.

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

68 (e) The clerk of the court or any person charged with retention and
69 control of such records in the records center of the Judicial Department
70 or any law enforcement agency having information contained in such
71 erased records shall not disclose to anyone, except the subject of the
72 record, upon submission pursuant to guidelines prescribed by the
73 Office of the Chief Court Administrator of satisfactory proof of the
74 subject's identity, information pertaining to any charge erased under
75 any provision of this section and such clerk or person charged with the
76 retention and control of such records shall forward a notice of such
77 erasure to any law enforcement agency to which he knows information
78 concerning the arrest has been disseminated and such disseminated
79 information shall be erased from the records of such law enforcement
80 agency. Such clerk or such person, as the case may be, shall provide
81 adequate security measures to safeguard against unauthorized access
82 to or dissemination of such records or upon the request of the accused
83 cause the actual physical destruction of such records, except that such
84 clerk or such person shall not cause the actual physical destruction of
85 such records until three years have elapsed from the date of the final

86 disposition of the criminal case to which such records pertain. No fee
87 shall be charged in any court with respect to any petition under this
88 section. Any person who shall have been the subject of such an erasure
89 shall be deemed to have never been arrested within the meaning of the
90 general statutes with respect to the proceedings so erased and may so
91 swear under oath, except that any person applying for a position as a
92 peace officer, as defined in subdivision (9) of section 53a-3, shall
93 remain responsible for reporting all previous arrests.

94 (f) Upon motion properly brought, the court or a judge thereof, if
95 such court is not in session, may order disclosure of such records (1) to
96 a defendant in an action for false arrest arising out of the proceedings
97 so erased or (2) to the prosecuting attorney and defense counsel in
98 connection with any perjury charges which the prosecutor alleges may
99 have arisen from the testimony elicited during the trial. Such
100 disclosure of such records is subject also to any records destruction
101 program pursuant to which the records may have been destroyed. The
102 jury charge in connection with erased offenses may be ordered by the
103 judge for use by the judiciary, provided the names of the accused and
104 the witnesses are omitted therefrom.

105 (g) The provisions of this section shall not apply to any police or
106 court records or the records of any state's attorney or prosecuting
107 attorney with respect to any information or indictment containing
108 more than one count (1) while the criminal case is pending, or (2) when
109 the criminal case is disposed unless and until all counts are entitled to
110 erasure in accordance with the provisions of this section. Nothing in
111 this section shall require the erasure of any information contained in
112 the registry of protective orders established pursuant to section 51-5c,
113 as amended.

114 (h) For the purposes of this section, "court records" shall not include
115 a record or transcript of the proceedings made or prepared by an
116 official court reporter, assistant court reporter or monitor.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2006</i>	54-142a
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PS

Joint Favorable C/R

JUD