



General Assembly

January Session, 2011

**Raised Bill No. 6491**

LCO No. 4039

\*04039\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING ERASURE OF POLICE RECORDS UPON THE EXPIRATION OF THE APPLICABLE STATUTE OF LIMITATIONS AND SERVICE OF PROCESS ON CERTAIN POLICE 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 Section 54-142a of the general statutes is repealed and the  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, 2011*):

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) (1) Whenever any charge in a criminal case has been nolleed 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, except that 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.

47 (2) Whenever any charge in a criminal case has been continued at

48 the request of the prosecuting attorney, and a period of thirteen  
49 months has elapsed since the granting of such continuance during  
50 which period there has been no prosecution or other disposition of the  
51 matter, the charge shall be construed to have been nolle as of the date  
52 of termination of such thirteen-month period and such erasure may  
53 thereafter be effected or a petition filed therefor, as the case may be, as  
54 provided in this subsection for nolle cases.

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

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

69 (e) (1) The clerk of the court or any person charged with retention  
70 and control of such records in the records center of the Judicial  
71 Department or any law enforcement agency having information  
72 contained in such erased records shall not disclose to anyone, except  
73 the subject of the record, upon submission pursuant to guidelines  
74 prescribed by the Office of the Chief Court Administrator of  
75 satisfactory proof of the subject's identity, information pertaining to  
76 any charge erased under any provision of this section and such clerk or  
77 person charged with the retention and control of such records shall  
78 forward a notice of such erasure to any law enforcement agency to  
79 which he knows information concerning the arrest has been

80 disseminated and such disseminated information shall be erased from  
81 the records of such law enforcement agency. Such clerk or such person,  
82 as the case may be, shall provide adequate security measures to  
83 safeguard against unauthorized access to or dissemination of such  
84 records or upon the request of the accused cause the actual physical  
85 destruction of such records, except that such clerk or such person shall  
86 not cause the actual physical destruction of such records until three  
87 years have elapsed from the date of the final disposition of the criminal  
88 case to which such records pertain.

89 (2) No fee shall be charged in any court with respect to any petition  
90 under this section.

91 (3) Any person who shall have been the subject of such an erasure  
92 shall be deemed to have never been arrested within the meaning of the  
93 general statutes with respect to the proceedings so erased and may so  
94 swear under oath.

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

106 (g) The provisions of this section shall not apply to any police or  
107 court records or the records of any state's attorney or prosecuting  
108 attorney with respect to any information or indictment containing  
109 more than one count (1) while the criminal case is pending, or (2) when  
110 the criminal case is disposed of unless and until all counts are entitled  
111 to erasure in accordance with the provisions of this section, except that

112 when the criminal case is disposed of, electronic records or portions of  
113 electronic records released to the public that reference a charge that  
114 would otherwise be entitled to erasure under this section shall be  
115 erased in accordance with the provisions of this section. Nothing in  
116 this section shall require the erasure of any information contained in  
117 the registry of protective orders established pursuant to section 51-5c.  
118 For the purposes of this subsection, "electronic record" means any  
119 police or court record or the record of any state's attorney or  
120 prosecuting attorney that is an electronic record, as defined in section  
121 1-267, or a computer printout.

122 (h) Whenever in any criminal investigation of an offense an  
123 individual who is the subject of the investigation is not charged with  
124 the offense, all police records pertaining to such investigation which  
125 have not been previously erased shall be erased upon the expiration of  
126 time within which such individual may be prosecuted pursuant to  
127 chapter 966. Nothing in this subsection shall prevent the erasure of  
128 police records, prior to such expiration of time, pursuant to section 1-  
129 216 or any other provision of law.

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

133 Sec. 2. Section 52-57 of the general statutes is repealed and the  
134 following is substituted in lieu thereof (*Effective October 1, 2011*):

135 (a) Except as otherwise provided, process in any civil action shall be  
136 served by leaving a true and attested copy of it, including the  
137 declaration or complaint, with the defendant, or at his usual place of  
138 abode, in this state.

139 (b) Process in civil actions against the following-described classes of  
140 defendants shall be served as follows: (1) Against a town, upon its  
141 clerk, assistant clerk, manager or one of its selectmen; (2) against a city,  
142 upon its clerk or assistant clerk or upon its mayor or manager; (3)

143 against a borough, upon its manager, clerk or assistant clerk or upon  
144 the warden or one of its burgesses; (4) against a school district, upon  
145 its clerk or one of its committee; (5) against a board, commission,  
146 department or agency of a town, city or borough, notwithstanding any  
147 provision of law, upon the clerk of the town, city or borough, provided  
148 two copies of such process shall be served upon the clerk and the clerk  
149 shall retain one copy and forward the second copy to the board,  
150 commission, department or agency; (6) against any other municipal or  
151 quasi-municipal corporation, upon its clerk or upon its chief presiding  
152 officer or managing agent; and (7) against an employee of a town, city  
153 or borough in a cause of action arising from the employee's duties or  
154 employment, upon the clerk of the town, city or borough, provided  
155 two copies of such process shall be served upon the clerk and the clerk  
156 shall retain one copy and forward the second copy to the employee.

157 (c) In actions against a private corporation, service of process shall  
158 be made either upon the president, the vice president, an assistant vice  
159 president, the secretary, the assistant secretary, the treasurer, the  
160 assistant treasurer, the cashier, the assistant cashier, the teller or the  
161 assistant teller or its general or managing agent or manager or upon  
162 any director resident in this state, or the person in charge of the  
163 business of the corporation or upon any person who is at the time of  
164 service in charge of the office of the corporation in the town in which  
165 its principal office or place of business is located. In actions against a  
166 private corporation established under the laws of any other state, any  
167 foreign country or the United States, service of process may be made  
168 upon any of the aforesaid officers or agents, or upon the agent of the  
169 corporation appointed pursuant to section 33-922.

170 (d) In actions against a partnership, service of process may be made  
171 by personally serving any process within the state upon any one of the  
172 partners or, if none of the partners are residents of the state, service  
173 may be made upon the Secretary of the State; provided, prior to the  
174 return date, the officer serving the writ shall mail a copy of the writ  
175 and the complaint by registered or certified mail, return receipt

176 requested, to the last-known address of every partner named in the  
177 writ not personally served. A statement of such mailing and receipt  
178 therefor shall be included in the officer's return.

179 (e) In actions against a voluntary association, service of process may  
180 be made upon the presiding officer, secretary or treasurer. If all of such  
181 officers are not residents of the state and the voluntary association is  
182 doing business, acting or carrying out its operations or its functions  
183 within the state, the voluntary association shall be deemed to have  
184 appointed the Secretary of the State as its attorney and to have agreed  
185 that any process in any civil action brought against it may be served  
186 upon the Secretary of the State and that the process shall have the  
187 same validity as if served personally upon the presiding officer,  
188 secretary or treasurer of the voluntary association. The process shall be  
189 served by any officer to whom the process is directed upon the  
190 Secretary of the State by leaving with, or at the office of, the Secretary  
191 of the State, at least twelve days before the return day of the process, a  
192 true and attested copy thereof, and by sending to the defendant at its  
193 last-known address by registered or certified mail, postage prepaid, a  
194 like true and attested copy with an endorsement thereon of the service  
195 upon the Secretary of the State. The officer serving the process upon  
196 the Secretary of the State shall leave with the Secretary of the State, at  
197 the time of service, a fee of twenty-five dollars, which fee shall be taxed  
198 in favor of the plaintiff in [his] the plaintiff's costs if [he] the plaintiff  
199 prevails in the action. The Secretary of the State shall keep a record of  
200 each such process and the day and hour of service.

201 (f) When the other methods of service of process provided under  
202 this section or otherwise provided by law cannot be effected, in actions  
203 concerning the establishment, enforcement or modification of child  
204 support orders other than actions for dissolution of marriage,  
205 including, but not limited to, such actions under sections 17b-122, 17b-  
206 124 to 17b-132, inclusive, 17b-136 to 17b-138, inclusive, 17b-194 to 17b-  
207 197, inclusive, 17b-222 to 17b-250, inclusive, 17b-256, 17b-263, 17b-340  
208 to 17b-350, inclusive, 17b-689b, 17b-743 to 17b-747, inclusive, and 46b-

209 212 to 46b-213v, inclusive, and chapters 815, 815p, 815t, 815y and 816,  
210 and actions to implement garnishments for support under section 52-  
211 362, service of process may be made upon a party to the action by one  
212 of the following methods, provided proof of receipt of such process by  
213 such party is presented to the court in accordance with rules  
214 promulgated by the judges of the Superior Court:

215 (1) By certified mail to a party to the action addressed to the  
216 employer of such party. Any service of process so sent shall include on  
217 the outside envelope the words "To be delivered to the employee in  
218 accordance with subsection (f) of section 52-57". The employer shall  
219 accept any such service of process sent by certified mail and promptly  
220 deliver such certified mail to the employee; or

221 (2) When a party to an action under this subsection is employed by  
222 an employer with fifteen or more employees, by personal service upon  
223 an official of the employer designated as an agent to accept service of  
224 process in actions brought under this subsection. Every employer with  
225 fifteen or more employees doing business in this state shall designate  
226 an official to accept service of process for employees who are parties to  
227 such actions. The person so served shall promptly deliver such process  
228 to the employee.

229 (g) When the other methods of service of process provided under  
230 this section or otherwise provided by law cannot be effected, in actions  
231 against a person, in such person's individual capacity, who is a  
232 member of an organized local police department or a member of the  
233 Division of State Police within the Department of Public Safety, service  
234 of process may be made upon the chief of police or the Commissioner  
235 of Public Safety, as the case may be, or any person designated by the  
236 chief of police or commissioner at the appropriate police station, who  
237 shall act as the agent of the member named in the process. Service  
238 upon such agent shall be deemed to be service upon the member. Two  
239 copies of such process shall be served upon such agent who shall  
240 retain one copy and forward one copy to the member named in the

241 process.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	54-142a
Sec. 2	October 1, 2011	52-57

**Statement of Purpose:**

To: (1) Ensure that police records of criminal investigations be erased upon the expiration of any statute of limitations within which the applicable crime may be prosecuted, and (2) clarify the manner for serving process on police officers in their individual capacities as defendants in civil actions when their usual place of abode is not discoverable, similar to the manner for summoning police officers as witnesses.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*