



Senate

General Assembly

File No. 540

February Session, 2014

Senate Bill No. 366

Senate, April 15, 2014

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE ERASURE OF RECORDS IN
DELINQUENCY AND FAMILY WITH SERVICE NEEDS MATTERS.***

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

1 Section 1. Section 46b-146 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) (1) Whenever [any] a child has been convicted as delinquent [,
4 has been adjudicated a member of a family with service needs] for the
5 commission of a serious juvenile offense or has signed a statement of
6 responsibility admitting to having committed a [delinquent act]
7 serious juvenile offense, and has subsequently been discharged from
8 the supervision of the Superior Court or from the custody of the
9 Department of Children and Families or from the care of any other
10 institution or agency to [whom] which the child has been committed
11 by the court, such child, or the child's parent or guardian, may file a
12 petition with the Superior Court [. If such] for erasure of records
13 pursuant to this subdivision. The court shall order all police and court
14 records pertaining to such child to be erased if the court finds [(1)] that

15 (A) at least [two years or, in the case of a child convicted as delinquent
16 for the commission of a serious juvenile offense,] four years have
17 elapsed from the date of such discharge, [(2) that] (B) no subsequent
18 juvenile proceeding or adult criminal proceeding is pending against
19 such child, [(3) that] (C) such child has not been convicted of a
20 delinquent act that would constitute a felony or misdemeanor if
21 committed by an adult during such [two-year or] four-year period, [(4)
22 that] (D) such child has not been convicted as an adult of a felony or
23 misdemeanor during such [two-year or] four-year period, and [(5)
24 that] (E) such child has reached eighteen years of age. [, the court shall
25 order all police and court records pertaining to such child to be
26 erased.]

27 (2) Whenever a child has been convicted as delinquent for the
28 commission of a delinquent act other than a serious juvenile offense,
29 has been adjudicated a member of a family with service needs or has
30 signed a statement of responsibility admitting to having committed a
31 delinquent act other than a serious juvenile offense, and has
32 subsequently been discharged from the supervision of the Superior
33 Court or from the custody of the Department of Children and Families
34 or from the care of any other institution or agency to which the child
35 has been committed by the court, the court shall order all police and
36 court records pertaining to such child to be erased on the second day
37 of January of each year or on a date designated by the court without
38 the filing of a petition if the court finds that (A) at least two years have
39 elapsed from the date of such discharge, (B) no subsequent juvenile
40 proceeding or adult criminal proceeding is pending against such child,
41 (C) such child has not been convicted of a delinquent act that would
42 constitute a felony or misdemeanor if committed by an adult during
43 such two-year period, (D) such child has not been convicted as an
44 adult of a felony or misdemeanor during such two-year period, and (E)
45 such child has reached eighteen years of age.

46 (3) Upon the entry of such an erasure order, all references including
47 arrest, complaint, referrals, petitions, reports and orders, shall be
48 removed from all agency, official and institutional files, and a finding

49 of delinquency or that the child was a member of a family with service
 50 needs shall be deemed never to have occurred. The persons in charge
 51 of such records shall not disclose to any person information pertaining
 52 to the record so erased, except that the fact of such erasure may be
 53 substantiated where, in the opinion of the court, it is in the best
 54 interests of such child to do so. No child who has been the subject of
 55 such an erasure order shall be deemed to have been arrested ab initio,
 56 within the meaning of the general statutes, with respect to proceedings
 57 so erased. Copies of the erasure order shall be sent to all persons,
 58 agencies, officials or institutions known to have information pertaining
 59 to the delinquency or family with service needs proceedings affecting
 60 such child.

61 (b) Whenever the case of a child who is charged with being
 62 delinquent or being a member of a family with service needs is
 63 dismissed, [as not delinquent or as not being a member of a family
 64 with service needs,] all police and court records pertaining to such
 65 charge shall be ordered erased immediately, without the filing of a
 66 petition.

67 (c) Nothing in this section shall prohibit the court from granting a
 68 petition to erase a child's records on a showing of good cause, after a
 69 hearing, before the [time] date when such records could be erased.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	46b-146

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 15 \$	FY 16 \$
Judicial Dept.	GF - Cost	138,518	197,193
Criminal Justice, Div.	GF - Cost	54,550	57,287
State Comptroller - Fringe Benefits ¹	GF - Cost	66,362	88,480

Municipal Impact: None

Explanation

The bill requires the erasure of certain juvenile records after two years of discharge and results in a cost to the Judicial Department and the Division of Criminal Justice.

The bill requires the courts to erase the juvenile record for certain juvenile offenders if specific conditions are met when the offender turns 18. This provision requires monitoring by the deputy clerks of the juvenile courts. It is anticipated that approximately 6,400 cases would be tracked and erased each year, requiring 3 additional clerks at a cost of \$138,518 in FY 15 and \$197,193 to the Judicial Department in FY 16 (includes OE and Equipment costs associated with new personnel) and \$47,665 in FY 15 and \$68,848 for fringe benefits. These costs were included in the Judicial Department budget pursuant to PA 13-184 (HB 6704).

The bill also results in a cost of \$54,550 in FY 15 and \$57,287 in FY 16 for a clerical supervisor to the Division of Criminal Justice to track the

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.66% of payroll in FY 15 and FY 16.

juvenile records that have been approved for erasure and \$18,697 in FY 15 and \$19,632 in FY 16 for fringe benefits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 366*****AN ACT CONCERNING THE ERASURE OF RECORDS IN DELINQUENCY AND FAMILY WITH SERVICE NEEDS MATTERS.*****SUMMARY:**

This bill requires a court, under specified circumstances, to order the automatic erasure of police and court records two years after discharge, for a child (at least age 18) who:

1. was convicted of a nonserious juvenile offense,
2. was adjudicated a member of a family with service needs (FWSN) (see BACKGROUND), or
3. signed a statement of responsibility admitting to having committed a nonserious juvenile offense.

For such records to be erased under current law, a child or his or her parent or guardian must file a petition with the Superior Court.

The law, unchanged by the bill, allows a serious juvenile offender or his or her parent or guardian to, after a four-year waiting period, file a petition for record erasure with the Superior Court. And, it allows the court, under specified circumstances, to order the erasure of such records.

EFFECTIVE DATE: October 1, 2014

RECORDS ERASURE FOR NONSERIOUS JUVENILE OFFENDERS OR MEMBERS OF FWSN

The bill requires a court to order, without petition, the erasure of the records on the second day of January each year or on a date it designates, if it finds that:

1. at least two years have elapsed from the date the child was discharged from the supervision of the Superior Court or from the custody or care of any agency or institution to which the child was committed by the court,
2. no subsequent juvenile proceeding or adult criminal proceeding is pending against the child,
3. the child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during the two-year period,
4. the child has not been convicted as an adult of a felony or misdemeanor during the two-year period, and
5. the child has reached age 18.

BACKGROUND

FWSN

"Family with service needs" means a family that includes a child at least age seven and under age 18 who:

1. has, without just cause, run away from the parental home or other properly authorized and lawful residence;
2. is beyond the control of his or her parent, parents, guardian, or other custodian;
3. has engaged in indecent or immoral conduct;
4. is a truant or habitual truant or who, while in school, continuously and overtly defies school rules and regulations; or
5. is age 13 or older and has engaged in sexual intercourse with a person age 13 or older who is not more than two years older or younger than him or her (CGS 46b-120(5)).

Serious Juvenile Offenses

The law designates the crimes listed in Table 1 or attempt or

conspiracy to commit them, as serious juvenile offenses (CGS § 46b-120(10)). In addition, it is a serious juvenile offense to run away without just cause from a secure placement other than a home while referred as a delinquent to the Court Support Services Division or committed as a delinquent to the Department of Children and Families.

Table 1: Serious Juvenile Offense

CGS §	Crimes	Penalty
21a-277	Sale of illegal drugs	Penalties vary depending on the violation but all are unclassified felonies
21a-278	Sale of illegal drugs by nondependent person	Penalties vary depending on the violation but all are unclassified felonies
29-33	Violating pistol transfer laws	B or D felony
29-34	False statement in connection with pistol transfer or transfer to someone under age 21	D felony
29-35	Carrying pistol without a permit	Depending on the violation: infraction or one to five years in prison, up to \$1,000, or both, with a one-year mandatory minimum unless mitigating circumstances
53-21(a)(2) or (3)	Risk of injury—involving contact with intimate parts or transferring legal or physical custody	Depending on the violation: C felony or B and may have five year mandatory minimum
53-80a	Manufacturing bombs	B felony
53-202b	Transferring an assault weapon	C felony with two year mandatory minimum
53-202c	Possessing an assault weapon	Depending on the violation: A misdemeanor or

CGS §	Crimes	Penalty
		D felony
53-390 to-392	Extortionate extension of credit	Depending on the violation: B felony or up to 20 years, and various fines apply
53a-54a to 54d	Murder, murder with special circumstances, felony murder, arson murder	Depending on the violation: A felony, life in prison without release, life in prison
53a-55 to 56b	Manslaughter: 1 st degree, 1 st degree with a firearm, 2 nd degree, 2 nd degree with a firearm, 2 nd degree with a motor vehicle	Depending on the violation: B or C felony and mandatory minimum may apply
53a-57	Misconduct with a motor vehicle	D felony
53a-59 to 60c	Assault: 1 st degree; 1 st degree of an elderly, blind, disabled, pregnant, or intellectually disabled person; 1 st degree of a corrections employee; of a pregnant woman resulting in termination of pregnancy; 2 nd degree; 2 nd degree with a firearm; 2 nd degree of an elderly, blind, disabled, pregnant, or intellectually disabled person; 2 nd degree of an elderly, blind, disabled, pregnant, or intellectually disabled person with a firearm	Depending on the violation: A, B, or D felony and mandatory minimum may apply
53a-64aa to 64bb	Strangulation in the 1 st and 2 nd degree	Depending on the violation: C or D felony
53a-70 to 71	Sexual assault: 1 st degree, aggravated 1 st degree, in spousal or cohabiting relationship, aggravated of a minor, 2 nd degree	Depending on the violation: A, B, or C felony and mandatory minimum may apply
53a-72b	Sexual assault 3 rd degree with a firearm	Depending on the violation: B or C felony and mandatory minimum may apply
53a-86	Promoting prostitution 1 st degree	B felony with nine-month mandatory minimum

CGS §	Crimes	Penalty
53a-92 to 94a	Kidnapping: 1 st degree, 1 st degree with a firearm, 2 nd degree, 2 nd degree with a firearm	Depending on the violation: A or B felony and mandatory minimum may apply
53a-95	Unlawful restraint	D felony
53a-100aa	Home invasion	A felony with 10-year mandatory minimum
53a-101	Burglary 1 st degree	B felony and mandatory minimum may apply
53a-102a	Burglary 2 nd degree with a firearm	C felony with one-year mandatory minimum
53a-103a	Burglary 3 rd degree with a firearm	D felony with one-year mandatory minimum
53a-111 to 113	Arson: 1 st degree, 2 nd degree, 3 rd degree	Depending on the violation: A, B, or C felony
53a-122(a)(1)	Larceny 1 st degree involving extortion	B felony
53a-123(a)(3)	Larceny 2 nd degree involving property taken from another's person	C felony
53a-134, 135, -136a	Robbery: 1 st degree, 2 nd degree, involving carjacking	Depending on the violation: B or C felony and mandatory minimum may apply
53a-167c	Assault of public safety, emergency medical, public transit, or health care personnel	C felony
53a-174(a)	Conveying unauthorized items into prison or institution	D felony
53a-196a	Employing a minor in an obscene performance	A felony with 10-year mandatory minimum
53a-211	Possessing a sawed off shotgun or silencer	D felony
53a-212	Stealing a firearm	D felony
53a-216	Criminal use of a firearm or electronic defense weapon	D felony with five-year mandatory minimum
53a-217b	Possessing a weapon on school grounds	D felony

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 24 Nay 16 (03/28/2014)