
OLR Bill Analysis

sSB 691

AN ACT CONCERNING ERASURE OF CRIMINAL RECORDS.

SUMMARY

This bill establishes a process to automatically erase (1) certain misdemeanor criminal records and (2) convictions for decriminalized offenses. The bill excludes individuals who have pending charges or an open criminal case in any jurisdiction.

Under the bill, misdemeanor criminal convictions must be automatically erased from an individual's criminal history record at no cost three years after the individual completed his or most recent sentence for a misdemeanor or felony conviction. (Presumably, the bill requires misdemeanor records be immediately erased upon passage if more than three years have elapsed since the most recent completed sentence.) Notice of the erasure must immediately be sent to all persons, agencies, officials, or institutions known to have information about the person's criminal history record and reasonable efforts must be made to send notice of the erasure to the individual within 30 days after the erasure. (The bill does not specify who is responsible for providing the notice.) Misdemeanors that are family violence crimes, nonviolent sexual offenses, or sexually violent offenses are not eligible for automatic erasure.

Existing law, unchanged by the bill, requires a misdemeanor criminal record to be erased if the individual applies for and receives an absolute pardon from the Board of Pardons and Parole (BOPP).

For decriminalized offenses, the bill requires the court or judicial department records center, depending on the conviction, to immediately direct the physical destruction of the police, court, and prosecutor's records of the case. Currently, a person who has a conviction on his or her criminal record for an offense that has since

been decriminalized must petition the court or judicial department records center, depending on the conviction, for an order of erasure.

The bill also modifies the:

1. requirements for the expedited pardon process for which BOPP must adopt regulations under current law and
2. actions that consumer reporting agencies and other entities that purchase public records of criminal matters from the judicial department must take before disclosing the records.

Lastly, existing law requires the criminal justice information system governing board to design and implement a system to facilitate information sharing between various entities with cognizance over law enforcement and criminal justice and local police departments and law enforcement officials. The bill additionally requires the system to facilitate information erasure between these entities.

EFFECTIVE DATE: October 1, 2019

EXPEDITED PARDON PROCESS

Current law requires the BOPP chairperson, in consultation with the executive director, to adopt regulations for an expedited pardons review process that allows an applicant convicted of a non-violent crime to be granted a pardon without a hearing. The bill instead requires the regulations to create an expedited pardon review process for applicants convicted of certain class C, D, or E felonies to get a pardon without hearing, based on the presumption that the pardon should be granted.

Currently, the expedited process may not be used if a victim requests a hearing. Under the bill, the process may also not be used if the board requires a hearing to further evaluate whether the pardon should be granted, in which case the state has the burden of proving that the person is ineligible for an expedited pardon. The bill also specifies that a person is ineligible for such a pardon if the offense was a family violence crime, a nonviolent sexual offense, or a sexually

violent offense.

DISCLOSING RECORDS

The bill modifies the actions that persons that purchased public criminal records from the judicial department must take before disclosing the records. It also specifies that “persons” for these purposes includes background screening providers and similar data-based services or companies, in addition to consumer reporting agencies as under current law.

Currently, before disclosing the records, the person must purchase any updated criminal matters of public record or information available to comply with the law, either on a monthly basis or on another schedule the judicial department may establish. The bill eliminates the option for an alternate schedule. Current law also requires the person to update its records to permanently delete any erased records. The bill requires this be completed within 30 days after receiving information on automatically erased records. As under current law, the person may not further disclose erased records.

It also specifies that “persons” for these purposes includes background screening providers and similar data-based services or companies, in addition to consumer reporting agencies as under current law.

BACKGROUND

Family Violence Crime

By law, “family violence crime” means a crime, other than a delinquent act, that involves an act of family violence to a family or household member. It does not include acts by parents or guardians disciplining minor children unless such acts constitute abuse. (By law, “family violence” is, among other things, physical harm or the threat of violence between family or household members, excluding verbal abuse unless there is present danger and likelihood of physical violence). (CGS § 46b-38a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 21 Nay 19 (04/09/2019)