



General Assembly

January Session, 2019

Amendment

LCO No. 10235



Offered by:
SEN. WINFIELD, 10th Dist.

To: Subst. Senate Bill No. 691 File No. 832 Cal. No. 434

**"AN ACT CONCERNING ERASURE OF CERTAIN MISDEMEANOR
CRIMINAL RECORDS AND EXPEDITED PARDONS REVIEW FOR
CERTAIN FELONY OFFENSES."**

1 Strike sections 1 and 2 in their entirety and insert the following in
2 lieu thereof:

3 "Section 1. Section 54-142a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2019*):

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

15 responsible by reason of mental disease or defect.

16 (b) Whenever in any criminal case prior to October 1, 1969, the
17 accused, by a final judgment, was found not guilty of the charge or the
18 charge was dismissed, all police and court records and records of the
19 state's or prosecuting attorney or the prosecuting grand juror
20 pertaining to such charge shall be erased by operation of law and the
21 clerk or any person charged with the retention and control of such
22 records shall not disclose to anyone their existence or any information
23 pertaining to any charge so erased; provided nothing in this subsection
24 shall prohibit the arrested person or any one of his heirs from filing a
25 petition for erasure with the court granting such not guilty judgment
26 or dismissal, or, where the matter had been before a municipal court, a
27 trial justice, the Circuit Court or the Court of Common Pleas [with the
28 records center of the Judicial Department] in the Superior Court where
29 venue would exist for criminal prosecution, and thereupon all police
30 and court records and records of the state's attorney, prosecuting
31 attorney or prosecuting grand juror pertaining to such charge shall be
32 erased. Nothing in this subsection shall require the erasure of any
33 record pertaining to a charge for which the defendant was found not
34 guilty by reason of mental disease or defect.

35 (c) (1) Whenever any charge in a criminal case has been nolle in the
36 Superior Court, or in the Court of Common Pleas, if at least thirteen
37 months have elapsed since such nolle, all police and court records and
38 records of the state's or prosecuting attorney or the prosecuting grand
39 juror pertaining to such charge shall be erased, except that in cases of
40 nolles entered in the Superior Court, Court of Common Pleas, Circuit
41 Court, municipal court or by a justice of the peace prior to April 1,
42 1972, such records shall be deemed erased by operation of law and the
43 clerk or the person charged with the retention and control of such
44 records shall not disclose to anyone their existence or any information
45 pertaining to any charge so erased, provided nothing in this subsection
46 shall prohibit the arrested person or any one of his heirs from filing a
47 petition to the court [or to the records center of the Judicial
48 Department, as the case may be,] to have such records erased, in which

49 case such records shall be erased.

50 (2) Whenever any charge in a criminal case has been continued at
51 the request of the prosecuting attorney, and a period of thirteen
52 months has elapsed since the granting of such continuance during
53 which period there has been no prosecution or other disposition of the
54 matter, the charge shall be nolle upon motion of the arrested person
55 and such erasure may thereafter be effected or a petition filed therefor,
56 as the case may be, as provided in this subsection for nolle cases.

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

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

73 (e) (1) Any individual who has ever been convicted of a
74 misdemeanor in any court of this state may, provided at least three
75 years have passed following the completion of any sentence imposed
76 as a result of such individual's most recent conviction for a
77 misdemeanor or felony offense, file a petition with the Superior Court
78 at the location in which the most recent misdemeanor conviction was
79 effected, or with the Superior Court at the location having custody of
80 the records of such conviction or if such conviction was in the Court of

81 Common Pleas, Circuit Court, municipal court or by a trial justice
82 court, in the Superior Court where venue would exist for criminal
83 prosecution, for an order of erasure, and if such petition is in order, the
84 Superior Court shall issue such order of erasure and direct all police
85 and court records and records of the state's or prosecuting attorney
86 pertaining to each such misdemeanor offense, except any
87 misdemeanor that is a family violence crime, as defined in section 46b-
88 38a, or that is a nonviolent sexual offense or a sexually violent offense,
89 each as defined in section 54-250, to be erased.

90 (A) Notice of the erasure shall immediately be sent to all persons,
91 agencies, officials or institutions known to have information pertaining
92 to the criminal history record information. Reasonable efforts shall be
93 made to send notice of the erasure to the individual whose records
94 have been erased not later than thirty calendar days after such erasure;

95 (B) If an individual has been convicted of an offense in any court in
96 this state and such offense has been decriminalized subsequent to the
97 date of such conviction, such conviction shall not be considered when
98 evaluating such individual's criminal history record information for
99 the purposes of this subsection; and

100 (C) Erasure under this subsection shall not occur in the case of any
101 individual who has pending charges or an open criminal case in any
102 jurisdiction.

103 (2) Nothing in this subsection shall limit any other procedure for
104 erasure of criminal history record information or prohibit an
105 individual from participating in any such procedure, even if such
106 individual's criminal history record information has been erased under
107 this subsection.

108 [(e)] (f) (1) The clerk of the court [or any person charged with
109 retention and control of such records in the records center of the
110 Judicial Department] or any law enforcement agency having
111 information contained in such erased records shall not disclose to
112 anyone, except the subject of the record, upon submission pursuant to

113 guidelines prescribed by the Office of the Chief Court Administrator of
114 satisfactory proof of the subject's identity, information pertaining to
115 any charge erased under any provision of this section and such clerk or
116 person charged with the retention and control of such records shall
117 forward a notice of such erasure to any law enforcement agency to
118 which he knows information concerning the arrest has been
119 disseminated and such disseminated information shall be erased from
120 the records of such law enforcement agency. Such clerk or such person,
121 as the case may be, shall provide adequate security measures to
122 safeguard against unauthorized access to or dissemination of such
123 records or upon the request of the accused cause the actual physical
124 destruction of such records, except that such clerk or such person shall
125 not cause the actual physical destruction of such records until three
126 years have elapsed from the date of the final disposition of the criminal
127 case to which such records pertain.

128 [(2) No fee shall be charged in any court with respect to any petition
129 under this section.]

130 [(3)] (2) Any person who shall have been the subject of such an
131 erasure shall be deemed to have never been arrested within the
132 meaning of the general statutes with respect to the proceedings so
133 erased and may so swear under oath.

134 [(f)] (g) Upon motion properly brought, the court or a judge of such
135 court, if such court is not in session, shall order disclosure of such
136 records (1) to a defendant in an action for false arrest arising out of the
137 proceedings so erased, or (2) to the prosecuting attorney and defense
138 counsel in connection with any perjury charges which the prosecutor
139 alleges may have arisen from the testimony elicited during the trial, or
140 any false statement charges, or any proceeding held pursuant to
141 section 53a-40b, or (3) counsel for the petitioner and the respondent in
142 connection with any habeas corpus or other collateral civil action in
143 which evidence pertaining to a nolle or dismissed criminal charge
144 may become relevant. Such disclosure of such records is subject also to
145 any records destruction program pursuant to which the records may

146 have been destroyed. The jury charge in connection with erased
147 offenses may be ordered by the judge for use by the judiciary,
148 provided the names of the accused and the witnesses are omitted
149 therefrom.

150 [(g)] (h) The provisions of this section shall not apply to any police
151 or court records or the records of any state's attorney or prosecuting
152 attorney with respect to any information or indictment containing
153 more than one count (1) while the criminal case is pending, or (2) when
154 the criminal case is disposed of unless and until all counts are entitled
155 to erasure in accordance with the provisions of this section, except that
156 when the criminal case is disposed of, electronic records or portions of
157 electronic records released to the public that reference a charge that
158 would otherwise be entitled to erasure under this section shall be
159 erased in accordance with the provisions of this section. Nothing in
160 this section shall require the erasure of any information contained in
161 the registry of protective orders established pursuant to section 51-5c.
162 For the purposes of this subsection, "electronic record" means any
163 police or court record or the record of any state's attorney or
164 prosecuting attorney that is an electronic record, as defined in section
165 1-267, or a computer printout.

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

170 (j) No fee shall be charged in any court with respect to any petition
171 under this section.

172 Sec. 2. Section 54-142d of the general statutes is repealed and the
173 following is substituted in lieu thereof (*Effective October 1, 2019*):

174 Whenever any person has been convicted of an offense in any court
175 in this state and such offense has been decriminalized subsequent to
176 the date of such conviction, such person may file a petition with the
177 superior court at the location in which such conviction was effected, or

178 with the superior court at the location having custody of the records of
179 such conviction [or with the records center of the Judicial Department]
180 if such conviction was in the Court of Common Pleas, Circuit Court,
181 municipal court or by a trial justice, in the Superior Court where venue
182 would currently exist for criminal prosecution, for an order of erasure,
183 and the Superior Court or records center of the Judicial Department
184 shall immediately direct all police and court records and records of the
185 state's or prosecuting attorney pertaining to such [case] offense to be
186 physically destroyed."