



General Assembly

Amendment

January Session, 2019

LCO No. 10293



Offered by:

SEN. FASANO, 34th Dist.

SEN. WITKOS, 8th Dist.

To: Subst. Senate Bill No. 691

File No. 832

Cal. No. 434

(As Amended)

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

1 Strike section 1 in its entirety and insert the following in lieu thereof:

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 Section 54-142a of the general statutes is repealed and the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

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

12 pertaining to a charge for which the defendant was found not guilty by
13 reason of mental disease or defect or guilty but not criminally
14 responsible by reason of mental disease or defect.

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

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

46 petition to the court [or to the records center of the Judicial
47 Department, as the case may be,] to have such records erased, in which
48 case such records shall be erased.

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

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

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

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

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

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

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

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

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

107 [(e)] (f) (1) The clerk of the court [or any person charged with
108 retention and control of such records in the records center of the
109 Judicial Department] or any law enforcement agency having

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

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

129 [(3)] (2) Any person who shall have been the subject of such an
130 erasure shall be deemed to have never been arrested within the
131 meaning of the general statutes with respect to the proceedings so
132 erased and may so swear under oath.

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

143 may become relevant. Such disclosure of such records is subject also to
144 any records destruction program pursuant to which the records may
145 have been destroyed. The jury charge in connection with erased
146 offenses may be ordered by the judge for use by the judiciary,
147 provided the names of the accused and the witnesses are omitted
148 therefrom.

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

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

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

171 (k) Records erased pursuant to this section shall not be erased or
172 destroyed for purposes of the pretrial family violence education
173 program under section 46b-38c or accelerated rehabilitation under
174 section 54-56e."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2019</i>	54-142a