

Criminal and Juvenile Delinquency Record Erasure

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Issue

What is the distinction between criminal record erasure or expungement, record sealing, and an absolute pardon under Connecticut law? How do these processes apply in the juvenile delinquent and adult criminal context?

Summary

Record erasure and expungement are terms that are used interchangeably. This report uses erasure throughout for consistency. This report provides an overview of the pardon and record erasure processes in Connecticut.

A person convicted of a crime as an adult must apply to the Board of Pardons and Paroles for an absolute pardon in order to have the conviction and associated records erased. The Board has the discretion to grant such pardons and takes certain factors into consideration in determining whether to do so.

By law, police, prosecutorial, and court records are also erased when a person (1) is found not guilty or has his or her charges dismissed and the period to file an appeal expires, or an appeal upholds the determination or (2) has a charge nolle and 13 months pass. Additionally, a person may petition the court to have a record erased when the crime for which he or she has been convicted is subsequently decriminalized. Once a record is erased, the subject is deemed to have never been arrested and may swear as much under oath.

A convicted offender who is not incarcerated may also apply for a certificate of employability to relieve him or her from certain barriers or forfeitures related to employment or licensure. This certificate does not affect the individual's criminal record.

Erasure is not the same as physical destruction. Generally, erased records are physically destroyed only when defendants request it, and physical destruction occurs, at the earliest, three years after the final disposition date of the underlying criminal case. But if someone requests erasure of records due to criminalization of an offense, the record is physically destroyed. Erased records are generally not disclosed to anyone; however, a court may order disclosure in certain circumstances.

In Connecticut, juvenile records are generally sealed because the proceedings themselves are confidential, but a person still needs to affirmatively seek to have his or her delinquency records erased in order to have a clean criminal record. A minor convicted in adult court (as may be the case for certain felony offenses) must follow the same process as adults to have a criminal record erased. If a minor was adjudicated delinquent in juvenile court or convicted as a youthful offender in adult court, the police and court records related to the case are confidential and are generally for use only by the court, with certain exceptions. A person adjudicated delinquent in juvenile court may petition the court to have the police and court records erased. Generally, the child must be age 18 before such a petition may be filed. The court must grant the petition as long as the applicant has satisfied certain conditions. If the person was convicted as a youthful offender, the law requires records to be erased when he or she reaches age 21, if he or she has completed any required supervision or commitment and has not been convicted of a subsequent felony.

Pardon Process

Generally, a person must wait five years before applying for an absolute pardon for a felony and three years for a misdemeanor, except under extraordinary circumstances ([CGS § 54-130a\(c\)](#)).

An applicant for a full pardon must submit to the board information on a number of topics, including his or her criminal records, employment, and other activities. He or she must also authorize a background check and submit three references.

The law authorizes the board to gather information about an applicant's history or character. Prosecutors, judges, police officers, and others, upon the board's request, must provide information about the person's habits, disposition, career, and associates ([CGS § 54-130c](#)). The applicant may be required to attend a hearing before the parole board at which the board reviews an applicant's eligibility and suitability for a pardon.

Pardon Factors

According to the [Board of Pardons and Parole](#), when deciding whether to grant a pardon, it may consider factors such as the:

1. applicant's rehabilitation, criminal history, accomplishments since his or her last offense, work history, contact with the criminal justice system, character references, and community service;
2. time since the applicant's most recent offense;
3. offense's severity;
4. victim's input and the crime's impact on the victim; and
5. state's attorney's opinion.

Expedited Pardon Process

The applicant may be eligible for an expedited pardon without a hearing if:

1. the conviction was for a nonviolent offense;
2. at least five years have elapsed since the conviction (three years for a misdemeanor);
3. he or she has (a) completed any sentence, including imprisonment, probation, and parole; (b) completed any court ordered program or community service; and (c) paid any court-ordered fees; and
4. he or she has no pending criminal charges, open criminal cases, or other convictions ([Conn. Agency Reg. § 54-124a\(j\)\(2\)-6a](#)).

According to the board, 30 days in advance of full pardon hearings it holds a pre-screen meeting where it determines which of the expedited pardon applications to grant or deny. The board may also choose to send an application to a full hearing. If the board grants the pardon at the pre-screening, the applicant does not need to attend a full hearing and the board begins to process the record erasure immediately. For the full pardon process, including a hearing, it currently takes approximately six months from the time the board receives the application to the time the record is erased.

Certificate of Employability

The board also issues certificates of employability to relieve an eligible offender of certain barriers to gaining employment or obtaining a credential, such as an occupational license, resulting from a criminal conviction. These certificates are not a means of having a conviction erased. According to the board, it accepts and processes applications for individuals who (1) have successfully been under the supervision of the Department of Correction's Parole and Community Services Division for 90 days or (2) have successfully completed their sentence, have no new arrest, and have been in the community for at least 90 days. The board reviews and investigates these applications and

then submits the application for an administrative review before a panel, which the applicant does not attend. Following the review, the panel either denies or grants the certificate.

Erasure of Criminal Records

By law, police, prosecutorial, and court records are erased when a person:

1. is found not guilty or has his or her charges dismissed and the period to file an appeal expires or an appeal upholds the determination,
2. has a charge nolle and 13 months pass, or
3. receives a pardon ([CGS § 54-142a](#)).

A defendant can make a motion to nolle a charge and have it erased if the charge was continued at the prosecutor's request and there has been no prosecution or disposition for 13 months. The erasure provisions do not apply to an information or indictment with more than one count while the case is pending or until all counts are entitled to erasure. However, after the case is disposed of, electronic records or portions of them containing a charge entitled to erasure must be erased ([CGS § 54-142a](#)).

A person who was convicted of a crime that was subsequently decriminalized may petition the court to have the associated records erased. The court must direct all police, prosecutor, and court records related to the case physically destroyed ([CGS § 54-142d](#)).

Disclosure of Erased Records

Erased records are generally not disclosed to anyone except, upon request and with proof of identity, the subject of the record. A court may order disclosure to:

1. a defendant in an action for false arrest,
2. a state prosecutor and a defense attorney when the defendant faces perjury charges based on his or her trial testimony,
3. counsel for a petitioner or respondent in a habeas corpus or other collateral civil action in which evidence related to a nolle or dismissed criminal charge may become relevant, or
4. crime victims within two years after final disposition of the criminal case.

Crime victims or their representatives must apply to the court in writing indicating that either they have filed a lawsuit to recover damages in connection with the crime or intend to file such a lawsuit ([CGS §§ 54-142a-142c](#)).

Juvenile Record Erasure

To have juvenile delinquency records erased the child or his or her parent or guardian must file a petition with the court after the child has been discharged from court supervision or court-ordered custody. The court must order the police and court records pertaining to the child to be erased under the following conditions:

1. the child is at least age 18 and at least two years have elapsed since he or she was discharged (or four years if the child was convicted of a crime designated as a serious juvenile offense);
2. there is no juvenile proceeding or adult criminal proceeding pending against the child;
3. the child has not been convicted of another delinquent act in that two- or four-year period that would constitute a felony or misdemeanor if committed by an adult; and
4. the child has not been convicted as an adult of a felony or misdemeanor during that period ([CGS § 46b-146](#)).

The law allows the court to grant a petition to erase a child's record before the required two- to four-year period following a hearing and a showing of good cause or if the child has a criminal record as a result of being a victim of human trafficking or related federal crimes. In the latter circumstance, none of the other conditions for erasure apply ([CGS § 46b-146](#)).

By law, when the court enters an erasure order, all references to the court involvement must be removed from agency, official, and institutional files including arrest, complaint, referrals, petitions, reports and orders. Copies of the erasure order must be sent to all persons, agencies, officials, and institutions known to have information pertaining to the delinquency proceedings. Individuals in charge of such records are generally prohibited from disclosing any information about the erased records; however, they may substantiate the erasure if, in the court's opinion, it is in the child's best interest to do so ([CGS § 46b-146](#)).

Erasure Without a Petition

There is no need for a petition if the child was dismissed as not delinquent. In such cases, the court must order the police and court records related to the charge be erased immediately ([CGS § 46b-146](#)). The law also requires automatic erasure of police and juvenile court records 13 months after a prosecutor declines to prosecute a case (nolle prosequi) or a delinquency count is dismissed without prejudice ([CGS § 46b-133a](#)).

Additionally, the Connecticut Practice Book requires records to be erased without a petition if the child allegedly committed a delinquent act, and, after the case was referred by probation for nonjudicial handling (outside of the courtroom), the child successfully completed the associated

supervision period (up to six months). In such circumstances, the records are automatically erased, but the allegations may still be considered by probation when determining if the child may have a subsequent delinquency charge handled nonjudicially ([Conn. Prac. Bk. § 27-8A](#)).

Record Erasure for Adult Criminal or Youthful Offender Convictions

For certain serious offenses, minors may be charged and convicted as either adults or youthful offenders in criminal court. If the minor was convicted of a felony as an adult, he or she would have to follow the same pardon process described above to have the felony erased from his or her record.

If the minor was convicted as a youthful offender, the law requires records to be erased when he or she reaches age 21, if he or she has completed any required supervision or commitment and has not been later convicted of a felony. Police and court records are automatically erased and all related references are removed from agency, official, and institutional files (these references include anything relating to the arrest, complaint, referrals, petitions, reports, and orders). The law prohibits people in charge of records from disclosing information about erased records except to the record's subject. The erasure order is sent to all people, agencies, officials, and institutions known to have information about the proceedings ([CGS § 54-76o](#)).

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