



General Assembly

January Session, 2023

Raised Bill No. 6918

LCO No. 6122



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

AN ACT CONCERNING ERASURE OF CRIMINAL HISTORY RECORDS.

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

1 Section 1. Subsection (e) of section 54-142a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2023*):

4 (e) (1) (A) Except as provided in [subdivision (2) and subdivision]
5 subdivisions (2) and (3) of this subsection, whenever any person has
6 been convicted in any court of this state of a classified or unclassified
7 misdemeanor offense or a motor vehicle violation for which a maximum
8 term of imprisonment of not more than one year could have been
9 imposed, or a class D or E felony or an unclassified felony offense
10 [carrying a] for which a maximum term of imprisonment of not more
11 than five years could have been imposed or a motor vehicle violation
12 for which a maximum term of imprisonment greater than one year and
13 not more than five years could have been imposed, any police or court
14 record and record of the state's or prosecuting attorney or the
15 prosecuting grand juror pertaining to such conviction, or any record

16 pertaining to court obligations arising from such conviction held by the
17 Board of Pardons and Paroles shall be erased as follows: [(A)] (i) For any
18 classified or unclassified misdemeanor offense or a motor vehicle
19 violation for which a maximum term of imprisonment of not more than
20 one year could have been imposed, such records shall be erased seven
21 years from the date on which the court entered the convicted person's
22 most recent judgment of conviction [(i)] (I) by operation of law, if such
23 offense occurred on or after January 1, 2000, or [(ii)] (II) upon the filing
24 of a petition on a form prescribed by the Office of the Chief Court
25 Administrator, if such offense occurred prior to January 1, 2000; and
26 [(B)] (ii) for any class D or E felony, [or an] unclassified felony offense
27 [carrying a] for which a maximum term of imprisonment of not more
28 than five years could have been imposed or a motor vehicle violation
29 for which a maximum term of imprisonment in excess of one year and
30 not more than five years could have been imposed, such records shall
31 be erased ten years from the date on which the court entered the
32 convicted person's most recent judgment of conviction [(i)] (I) by
33 operation of law, if such offense occurred on or after January 1, 2000, or
34 [(ii)] (II) upon the filing of a petition on a form prescribed by the Office
35 of the Chief Court Administrator, if such offense occurred prior to
36 January 1, 2000.

37 (B) For purposes of subparagraph (A) of this subdivision, the
38 classification of the offense, and the maximum sentence that could have
39 been imposed for a conviction of such offense, shall be determined
40 based on the law that was in effect at the time the offense was
41 committed.

42 (2) Convictions for the following offenses shall not be eligible for
43 erasure pursuant to this subsection:

44 (A) Any conviction designated as a family violence crime, as defined
45 in section 46b-38a;

46 (B) Any conviction for an offense that is a nonviolent sexual offense
47 or a sexually violent offense, each as defined in section 54-250;

48 (C) Any conviction for [a class D felony offense that is] a violation of
49 section 29-33, 53a-60a, 53a-60b, 53a-60c, 53a-61a, 53a-64bb, 53a-64cc, 53a-
50 72a, 53a-90a, 53a-103a, 53a-181c, 53a-191, 53a-196, 53a-196d, 53a-196f,
51 53a-211, 53a-212, 53a-216, 53a-217, 53a-217a, 53a-217c, 53a-322, 53a-323,
52 54-251, 54-252, 54-253 or 54-254 or subdivision (1) of subsection (a) of
53 section 53a-189a. [; or

54 (D) Any conviction for a class A misdemeanor offense that is a
55 violation of section 53a-61a, 53a-64cc or 53a-323.]

56 (3) The provisions of subdivision (1) of this subsection shall not apply
57 to any conviction for any offense until the defendant: [has completed
58 serving the sentence imposed for any offense or offenses for which the
59 defendant has been convicted.]

60 (A) Has completed serving any period of incarceration, parole,
61 special parole, medical parole, compassionate parole or transitional
62 supervision associated with any sentence for such offense and any other
63 offense for which the defendant has ever been convicted in this state;

64 (B) Has completed serving any period of probation for any sentence
65 for any crime or crimes for which the defendant has been convicted on
66 or after January 1, 2000, in this state; and

67 (C) Is not the subject of any pending state criminal charge in this state.

68 (4) If a person has been convicted of a violation of subsection (c) of
69 section 21a-279 prior to October 1, 2015, such conviction shall not be
70 considered as a most recent offense when evaluating whether a
71 sufficient period of time has elapsed for an offense to qualify for erasure
72 pursuant to this subsection.

73 (5) Nothing in this subsection shall limit any other procedure for
74 erasure of criminal history record information, as defined in section 54-
75 142g, or prohibit a person from participating in any such procedure,
76 even if such person's criminal history record information has been
77 erased pursuant to this section.

78 (6) Nothing in this subsection shall be construed to require the
79 Department of Motor Vehicles to erase criminal history record
80 information on an operator's driving record. When applicable, the
81 Department of Motor Vehicles shall make such criminal history record
82 information available through the Commercial Driver's License
83 Information System.

84 (7) Nothing in this subsection shall terminate a defendant's obligation
85 to register as a person convicted of an offense committed with a deadly
86 weapon pursuant to section 54-280a, a felony for a sexual purpose
87 pursuant to section 54-254 or a criminal offense against a victim who is
88 a minor pursuant to section 54-251.

89 (8) No erasure under this subsection shall be construed to terminate
90 a defendant's obligation to abide by a standing criminal protective order
91 imposed under section 53a-40e or terminate a defendant's obligation to
92 pay any unremitted fine imposed as part of the court's sentence.

93 Sec. 2. Subsection (i) of section 54-142a of the general statutes is
94 repealed and the following is substituted in lieu thereof (*Effective July 1,*
95 *2023*):

96 (i) [The] (1) Except as provided in subdivision (2) of this subsection,
97 the provisions of this section shall not apply to any police or court
98 records or the records of any state's attorney or prosecuting attorney
99 [with respect to any information or indictment containing] referencing
100 more than one count [(1)] of the criminal case or, in the case of a police
101 record, referencing more than one defendant (A) while the criminal case
102 is pending, or [(2)] (B) when the criminal case is disposed of unless and
103 until all counts on such criminal case and, in the case of a police record,
104 on the relevant criminal cases for all referenced defendants are entitled
105 to erasure in accordance with the provisions of this section. [, except that
106 when the]

107 (2) When a criminal case is disposed of, qualified electronic records
108 or portions of qualified electronic records released to the public that
109 reference a charge that would otherwise be entitled to erasure under this

110 section shall be erased in accordance with the provisions of this section.

111 (3) Nothing in this section shall require the erasure of any information
112 contained in the registry of protective orders established pursuant to
113 section 51-5c, published memoranda of decision of the Superior Court
114 or any records of the Appellate Court or Supreme Court related to
115 matters considered by such courts.

116 (4) For the purposes of this subsection, ["electronic record"] "qualified
117 electronic record" means any police or court record or the record of any
118 state's attorney or prosecuting attorney that is an electronic record, as
119 defined in section 1-267, or a [computer] printout of any such electronic
120 record, but does not include any portion of a police record that is a
121 narrative description, including, but not limited to, any such description
122 contained in an investigative report.

123 Sec. 3. Subsection (l) of section 54-142a of the general statutes is
124 repealed and the following is substituted in lieu thereof (*Effective July 1,*
125 *2023*):

126 (l) For the purposes of this section, "court records" shall not include a
127 record or transcript of the proceedings made or prepared by an official
128 court reporter, assistant court reporter or monitor or any audio or video
129 recording of any court proceeding.

130 Sec. 4. Section 54-142e of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective July 1, 2023*):

132 (a) Notwithstanding the provisions of subsection (g) of section 54-
133 142a and section 54-142c, with respect to any person, including, but not
134 limited to, a consumer reporting agency as defined in subsection (i) of
135 section 31-51i, or a background screening provider or similar data-based
136 service or company, that purchases criminal matters of public record, as
137 defined in said subsection (i), from the Judicial Department or any
138 criminal justice agency pursuant to subsection (b) of section 54-142g, the
139 department or such criminal justice agency shall make available to such
140 person information concerning such criminal matters of public record

141 that have been erased pursuant to section 54-142a, as amended by this
142 act. Such information may include docket numbers or other information
143 that permits the person to identify and permanently delete records that
144 have been erased pursuant to section 54-142a, as amended by this act.

145 (b) Each person, including, but not limited to, a consumer reporting
146 agency or background screening provider or similar data-based service
147 or company, that has purchased records of criminal matters of public
148 record from the Judicial Department or any criminal justice agency
149 shall, prior to disclosing such records, (1) purchase from the Judicial
150 Department or such criminal justice agency, on a monthly basis or on
151 such other schedule as the Judicial Department or such criminal justice
152 agency may establish, any updated criminal matters of public record or
153 information available for the purpose of complying with this section,
154 and (2) update its records of criminal matters of public record to
155 permanently delete such erased records not later than thirty calendar
156 days after receipt of information on the erasure of criminal records
157 pursuant to section 54-142a, as amended by this act. Such person shall
158 not further disclose such erased records.

159 (c) If any person, including, but not limited to, a consumer reporting
160 agency, background screening provider or similar data-based service or
161 company discloses an erased record after thirty calendar days from the
162 date such person received notice pursuant to subsection (a) of this
163 section that such record had been erased, the Judicial Department or any
164 criminal justice agency shall fine such person ten dollars per record per
165 calendar day. If such person discloses an erased record after sixty
166 calendar days from the date such person received notice that such
167 record had been erased, the Judicial Department or any criminal justice
168 agency shall immediately bar such person, consumer reporting agency,
169 background screening provider or similar data-based service or
170 company from purchasing or otherwise receiving any records of
171 criminal matters for a period of not less than one calendar year.

172 Sec. 5. (NEW) (*Effective from passage*) If the automated processes
173 required to be developed under section 54-142t of the general statutes,

174 as amended by this act, have not marked a police or court record or the
175 record of any state's attorney or prosecuting attorney erased, or no
176 petition has been filed seeking to have such record erased, as of July 1,
177 2023, the provisions of section 54-142a of the general statutes, as
178 amended by this act, shall determine (1) whether such record is eligible
179 or not eligible for erasure, and (2) the eligibility of defendants who must
180 file a petition for the erasure of records, and not the provisions of section
181 54-142a of the general statutes, revision of 1958, revised to January 1,
182 2023.

183 Sec. 6. Section 54-142t of the general statutes is repealed and the
184 following is substituted in lieu thereof (*Effective from passage*):

185 (a) The Department of Emergency Services and Public Protection, in
186 consultation with the Judicial Branch and the Criminal Justice
187 Information System Governing Board established pursuant to section
188 54-142q, shall develop and implement automated processes for erasure
189 pursuant to section 54-142a, as amended by this act.

190 (b) The department may, within available appropriations,
191 disseminate information, including posting information on its Internet
192 web site, regarding records that are subject to erasure under the
193 provisions of this section.

194 (c) Nothing in this section shall be construed to require the
195 destruction of paper records.

196 (d) Nothing in the provisions of sections 46a-80a to 46a-80m,
197 inclusive, or sections 8-265c, 8-315, 10a-6, 31-51i, 38a-358, 38a-447, 46a-
198 51, 46a-74, 46a-79, 46a-80 and 46a-81, each as amended by public acts 21-
199 32, 21-33 and 22-26, as applicable, shall be construed to make the state,
200 any state agency, any municipality or any person liable for any action
201 taken on the basis of criminal history record information required to be
202 erased or deemed erased by operation of law by the provisions of such
203 public acts if:

204 (1) Such action is taken in good faith reliance on such criminal history

205 record information;

206 (2) Such criminal history record information has not yet been marked
 207 as erased by the automated system required under this section, or, in the
 208 case of a municipality or other person, such erasure marking has not
 209 been communicated to such municipality or other person; and

210 (3) Such action is taken before January 1, 2024.

211 (e) No person shall have any claim against the state or any state
 212 agency for compensation or payment for failure to erase a record
 213 pursuant to the provisions of sections 54-142a and 54-142t, as amended
 214 by this act, and public acts 21-32, 21-33 and 22-26, before January 1, 2024.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2023</i>	54-142a(e)
Sec. 2	<i>July 1, 2023</i>	54-142a(i)
Sec. 3	<i>July 1, 2023</i>	54-142a(l)
Sec. 4	<i>July 1, 2023</i>	54-142e
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	54-142t

Statement of Purpose:

To update and make technical and clarifying changes to the criminal history records erasure statutes and clarify liability issues concerning failure to erase criminal history records.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]