



**Governor Ned Lamont
State of Connecticut**



FACT SHEET
2020 Legislative Session

**HOUSE BILL 5019
*AN ACT CONCERNING FAIR FUTURES FOLLOWING ERASURE OF CRIMINAL RECORDS***

Summary of Proposal:

Section 1 expands required training for the Board of Pardons and Paroles (BOPP) to include a program on the pardon process, including information on the collateral consequences of a criminal conviction.¹

Section 2 requires automatic erasure of (1) most Class C and D misdemeanors, (2) possession of less than four ounces of cannabis before October 1, 2015, and (3) possession of less than 4 ounces of any controlled substance after October 1, 2015.² Auto-erasure will occur seven years following the person's most recent conviction, except for cannabis possession prior to October 1, 2015, which will be automatically erased without a waiting period. Family-violence crimes and crimes in which the defendant possessed a Commercial Driver's License at the time of the offense are excluded. Offenses involving sexual violence, driving under the influence, or bodily harm are not among the eligible misdemeanors.

Section 3 establishes an automated process—synchronized across the Department of Emergency Services and Public Protection (DESPP), the Judicial Department, and the Criminal Justice Information System (CJIS)—to erase criminal records. The destruction of paper records is not required.

Section 4 requires private background check companies that obtain criminal records from criminal justice agencies to update their records at least every month to ensure that erased records are permanently deleted from their databases.

Section 5 permits the DESPP Commissioner to waive the \$75 criminal-history-record-search fee for a pardon applicant who signs an affidavit representing indigency. (A criminal history record search is required to submit a complete pardon application.)

Section 6 enables the Department of Correction (DOC) commissioner to designate a deputy warden to serve as Director of Reentry Services for the department for the provision of comprehensive and collaborative programs, services, and strategies supporting successful reentry.

Section 7 establishes the Reentry Employment Advisory Committee—composed of people representing business, education, workforce development, the trades, and other perspectives—to advise the DOC on the alignment of the department's education and job-training programs with the needs of employers.

Reason for Proposal

This proposal recognizes that no one should receive a life sentence for a misdemeanor offense. Under current law, a criminal conviction typically remains on a person's record forever, regardless of the how minor the offense was, how long ago it was committed, or how much progress the individual has made toward rehabilitation. As a result, the record of a conviction can hinder a person's ability to get an education, a job, a professional license, and even their ability to access housing and public benefits.³

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Because of well-documented racial and ethnic disparities in the criminal justice system, these collateral consequences of criminal convictions disproportionately affect communities of color.⁴

Auto-erasure will alleviate the burden of a criminal record by making employment and housing opportunities more attainable for people after they have completed their sentence, which for Class C misdemeanors is less than 3 months, and for Class D misdemeanors is less than 30 days.

This proposal will make obtaining a pardon more efficient and accessible. By focusing the auto-erasure process on low-level misdemeanor criminal convictions, the pardons process will become more streamlined by allowing the BOPP to focus on higher level, more complex cases. The proposal will also make the process fairer by requiring board members to receive formal training on collateral consequences of a criminal conviction. Finally, under current law low-income individuals may not be able to apply for a pardon because the application requires submission of a criminal history record, which costs \$75 to obtain. This proposal removes this barrier by permitting the DESPP commissioner to waive this fee if the pardon applicant signs an affidavit representing indigency.

Significant Impacts

The proposal will be applied retroactively, automatically erasing a backlog of criminal records currently on file, as well as prospectively, automatically erasing eligible convictions going forward.

Auto-erasure helps overcome the limits inherent in the existing petition-based pardon process, which places the burden on the individual and was not designed at an adequate scale to address the number of convictions that have accrued over time in our state. Over the past three years the BOPP has issued, on average, 752 pardons per year, while last year there were 7,736 convictions of Class C and D misdemeanor charges alone.^{5,6} In other words, there were more than ten times as many convictions for C and D misdemeanors as there were pardons granted in a year. The proposal's scope, covering both C and D misdemeanors as well as drug-possession convictions, gives a sense of the potential scale of impact: tens of thousands of records will be cleared.

The proposal reaches beyond just improving records maintained by state government by also improving the integrity of criminal records shared with private background check companies. This legislation will require private background check companies' records to be updated at least every 30 days to ensure that erased records are permanently deleted from their databases, as well.

To support the legislation, the Governor's budget includes approximately \$2 million from the IT Capital Investment Program bond authorization to address technology system costs in DESPP, CJIS, and the Judicial Department. It is anticipated that waiving criminal-history-record-search fees will result in a revenue loss to the General Fund of approximately \$100,000 per year.

¹ Collateral consequences are "the legal and regulatory sanctions and restrictions that limit or prohibit people with criminal records from accessing employment, occupational licensing, housing, voting, education, and other opportunities." National Inventory of Collateral Consequences of Conviction (NICCC). <https://niccc.csgjusticecenter.org>.

² The following four offenses are excluded from Class D and D misdemeanors: avoidance or interference with an ignition interlocking device (14-227k), unlawful discharge of a firearm (53-203), loitering in or about school grounds (53a-185), and 53a-213 (drinking while operating a motor vehicle).

³ NICCC. <https://niccc.csgjusticecenter.org/database/>.

⁴ The Sentencing Project. "Racial Disparity." <https://www.sentencingproject.org/issues/racial-disparity/>

⁵ BOPP. "Statistical Information." <https://portal.ct.gov/BOPP/Research-and-Development-Division/Statistics/Statistics>

⁶ Based on information the Judicial Department provided to the Office of Policy and Management.