



SENATOR
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LEGISLATIVE FACTSHEET

Sealing of Arrests Senate Bill 393

Summary:

SB 393 will provide a clear legal pathway to sealing an arrest record from public view if the arrest did not result in a conviction, removing a serious barrier to employment and housing opportunities.

Background:

Currently, California law prohibits employers from asking an applicant about prior arrests that did not lead to convictions, yet many employers simply refuse to consider any applicant who has a criminal record. These arrests are not only accessible by government agencies, but are often used by private companies. With the rapid technological advancements of the 21st century, government information is now more public than ever and often compiled into databases by consumer reporting agencies. This makes it easier for employers, landlords, and others to base decisions on an arrest rather than a conviction.

Although California has a comprehensive statutory process to expunge convictions, it has inconsistent standards for sealing arrest records for individuals not convicted. Many individuals who are arrested are never charged, sometimes their cases are charged but later dismissed, or an individual can even take their case to trial and be acquitted by a jury. In each of these examples the record of arrest is still available publicly despite the fact that the individual was never convicted of a crime.

Arrest records that are not sealed can be costly and life-changing. The FBI reports that it has over 77 million individuals on file in their criminal master database, which translates to 1 in 3 adults. Furthermore, studies have found that around 40% of men and 20% of women were likely to be arrested before the age of 23, yet 47% were never convicted. A snapshot of felony filings in the 75 largest U.S. counties, for example, showed that approximately one-third of felony arrests did not lead to conviction. African Americans make-up less than 14 percent of the population, but making up 28 percent of all arrests, the impact of unsealed arrest record is disproportionately impacting communities of color.

According to a 2012 study conducted by the Society for Human Resource Management, 69% of reported organizations used criminal background checks on all job candidates and only 58% allow candidates to explain negative results. Many prospective employees and housing applicants are rejected solely based on having an arrest record on file. Studies also show people with unsealed arrest records have a substantially increased chance of living in poverty, earning lower wages, with fewer educational opportunities.

Problem:

Current record sealing procedures are ineffective and do not provide a mechanism to properly seal arrests from people's records. Some penal code sections provide for the sealing of local records, but do not affect state-level records, which are usually referenced in background checks. Records used for background checks can be outdated. Consumer reporting companies fail to update their databases to reflect court-ordered record sealing, which means that individuals are deprived of the very benefit that the court order is intended to provide.

Solution:

SB 393 will:

- Establish a uniform legal process for sealing records relating to arrests that did not result in a conviction.
- Update criminal records at the California Department of Justice, by doing so consumer reporting agencies will provide updated background reports.

By sealing records of arrest for those who have not been convicted of a crime. SB 393 will remove barriers that are holding back Californians from employment and housing opportunities.

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