

California Considers Expunging Attorney Discipline Records After Eight Years



California attorneys who have faced professional disciplinary action may soon have the chance for a public clean slate. The State Bar of California has endorsed a plan to expunge attorney discipline records after eight years, meaning those infractions would no longer appear on the lawyer's state bar website profile. This change aims to mitigate the impact of longstanding racial disparities in attorney discipline within the state.

Addressing Racial Disparities in Attorney Discipline

A 2019 state bar-commissioned study found significant racial disparities in attorney discipline. The study revealed that Black male attorneys in California, who currently make up just 1% of the state's lawyers, were more than three times as likely to be placed on probation than their white male counterparts. In response, a committee formed by the state bar in 2023 recommended that attorney records be automatically expunged, although they suggested a shorter timeframe than the proposed eight years.

Details of the Expungement Plan

The proposed expungement plan, however, does not apply to disbarment, which will still be disclosed on the state bar's website. Additionally, the expungement will only be available to attorneys who have not had any subsequent disciplinary actions during the past eight years. The state bar's board of directors voted to send this proposed change to the California Supreme Court for final approval.

Public Reaction and Concerns

The proposal has sparked significant debate. During the public comment process, 74% of the 445 comments received opposed the change, with non-attorney members of the public most heavily against it. Critics argue that expunging disciplinary records would reduce transparency and accountability, making it harder for the public to make informed decisions when choosing a lawyer.

Support from Attorneys

In contrast, the attorney community has shown more support for the proposal, with 69% of attorneys commenting in favor of it outright or with modifications. Proponents argue that the prospect of expungement gives lawyers an incentive to maintain clean records, thereby promoting better professional behavior.

Aligning with Other States and Professions

California, home to the second-largest attorney population in the U.S. with about 176,000 lawyers, is looking to align its policies with those of other states and professions. The state bar projected in May that 2,353 attorneys would immediately be eligible for expungement under the proposal. According to a state bar staff memo, the plan would bring California's attorney discipline policies closer in line with its oversight of other professions, such as doctors, nurses, and real estate appraisers.

Balancing Accountability and Redemption

State bar board chairman Brandon Stallings stated that the proposal strikes a balance between "accountability, transparency, and the opportunity for redemption." The plan aims to provide a fair chance for attorneys to rebuild their reputations while maintaining public trust in the legal profession.

As the proposal awaits final approval from the California Supreme Court, the legal community and the public continue to discuss its potential implications for the future of attorney discipline in the state.