

# CRIMINAL RECORDS REVIEW COMMITTEE

## Meeting Agenda

Tuesday, August 13, 2024 at 9:00a.m.

Maine State House, Room 228 (AFA) and via Zoom

Streaming: <https://legislature.maine.gov/Audio/#228>

1. Welcome and Introductions
  - Senator Donna Bailey, Senate Chair
  - Speaker Rachel Talbot Ross, House Chair
  
2. Update on Committee Information Requests at July 16 Meeting
  - Office of Policy and Legal Analysis, Staff
  - Sam Praver, Department of Corrections
  - Sheriff Joel Merry, Maine Sheriffs Association
  - Amanda Doherty, Maine Judicial Branch
  
3. Review of Clean State Laws in other States
  - Darlene Shores Lynch, Senior Legislative Researcher, Office of Policy and Legal Analysis
  
4. Stakeholder Comments and Suggestions Regarding CRRC Duties
  - Molly Hossier, Restorative Justice Project
  - Professor Brendan McQuade, University of Southern Maine
  - Rae Sage, Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations
  - Lauren Wille, Disability Rights Maine
  - Elizabeth Rodriguez-Ross, GLBTQ Legal Advocates & Defenders
  - Josh Miller, Maine Prisoner Reentry Network
  - Professor Catherine Besteman, Chandler Dugal & Linda Small, Colby College Justice Think Tank
  - Norman Kehling, Helping Incarcerated Individuals Transition (HIIT)
  - Chief Judge Mehnert, Penobscot Nation Tribal Court
  
5. Committee Discussion
  
6. Planning for Next Meeting

*\*The Committee may take a lunch break during the meeting\**

### Future Meetings

- Tuesday, September 24, 9:00 a.m. (Hybrid: State House Room 228 and Zoom)
- Tuesday, October 8, 9:00 a.m. (Hybrid: State House Room 228 and Zoom)
- Tuesday, November 19, 9:00 a.m. (Hybrid: State House Room 228 and Zoom)

*Additional information and materials are available on the Committee's webpage at:*  
<https://legislature.maine.gov/criminal-records-review-committee-131st-legislature>

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

May 19, 1981

Honorable Dana C. Devoe  
Maine State Senate  
State House  
Augusta, Maine 04333

Dear Senator Devoe:

This will respond to your letter of May 8, 1981 in which you raise a series of questions concerning the authority of the Legislative, Executive and Judicial Departments of Government to exercise disciplinary power over members of the Judiciary. Since you have specifically requested a prompt response to your inquiries, our answers to them will be rather conclusory in nature.

QUESTION NO. 1

"What power, if any, does the Legislature have to discipline judges aside from those enumerated in art. IX, §5 of the Maine Constitution?"

It is our opinion that the Legislature has no constitutional authority to discipline a judge except to the extent of removing him from office by impeachment or by recommending his removal by the Governor upon the address of both Houses of the Legislature.

Pursuant to art. VI, §4 of the Constitution of Maine,

"[a]ll judicial officers shall hold their offices for the term of seven years from the time of their respective appointments (unless sooner removed by impeachment or by address of both branches of the Legislature to the executive ...)."

See also Me. Const., art. IX, §5 ("...every person holding any office, may be removed by the Governor on the address of both branches of the Legislature..."). The Constitution confers upon the House of Representatives "the sole power of impeachment," (Me. Const., art. IV, pt. 1, §8), while the Senate possesses

"the sole power to try all impeachments...." Me. Const., art. IV, pt. 2, §7). The Governor has no authority to remove a judicial officer except "on the address of both branches of the Legislature." Me. Const., art. IX, §5. See also State v. Harmon, 98 A.804, 115 Me. 268, 271 (1916). In view of the foregoing, "[i]t is...apparent that, pursuant to our Constitution, the ...removal of judges is committed to the political departments of the government...." In Re Ross, Me., A.2d slip op. at 19 (Supreme Judicial Court, Opinion Issued April 23, 1981).

The fact that the power to remove a judge has been granted, by the Constitution, to the Legislative and Executive Departments of Government does not necessarily mean that those Departments possess the additional power to take disciplinary action against a judge short of removal from office. With the exception of removal from office by impeachment or address, the Constitution does not contain an express grant of authority to any branch of government to otherwise discipline judges. Consequently, we must determine whether an inherent or implied power to discipline judges for misconduct resides in any of the departments of government.

Each department of government possesses implied or inherent powers which arise by virtue of the fact that each is "severally supreme within [its] legitimate and appropriate sphere of action." Ex Parte Davis, 41 Me. 28, 53 (1856). As explained by the Law Court in Board of Overseers of the Bar v. Lee, Me., 422 A.2d 998, 1002 (1980):

"It is a fundamental principle of constitutional law that each department in our tri-partite scheme has, without any express grant, the inherent right to accomplish all objects necessarily within the orbit of that department when not expressly allocated to, or limited by the existence of a similar power in, one of the other departments."

Pursuant to Article VI, §1 of the Maine Constitution, the judicial power of the State of Maine is "vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish." Our Law Court has recently held that, as the only constitutionally created court, "it is incumbent upon the Supreme Judicial Court to exercise that part of the judicial power involved in prescribing the conduct of judges and imposing discipline upon them for misconduct....[T]he power of the Supreme Judicial Court to discipline judges for misconduct finds its source in the Constitution's grant of judicial power to the Court...." In Re Ross, supra at 19, 20.<sup>1</sup> That the authority to discipline

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1. The Supreme Judicial Court recognized that its disciplinary power over judges does not extend to the removal of a judge from office. In Re Ross, supra at 20. The Court declined to determine whether its inherent disciplinary power over judges includes the power to impose a suspension without pay. Id. at 21. See also Me. Const., art., VI, §2.

judges is an inherent power of the Judicial Branch of government, absent a constitutional provision to the contrary, has been widely recognized in other jurisdictions. See, e.g., In Re Mussman, 112 N.H. 99, 101-02, 289 A.2d 403, 404-05 (1972); In Re De Saulnier, 360 Mass. 787, 807-09, 279 N.E. 2d 296, 307-08 (1971). See generally, Annotation, Power of Court to Remove or Suspend Judge, 53 A.L.R. 3d 882 (1973) (and cases cited therein). We conclude, therefore, that the Supreme Judicial Court possesses the inherent judicial power to take disciplinary action against a judge for misconduct.

Having concluded that the Supreme Judicial Court possesses inherent power to discipline a judge for misconduct, we must now consider whether the existence of this power in the Court precludes the exercise of a similar power by the Legislature. To resolve this issue, we must examine the doctrine of the separation of powers, which has been explicitly embodied in Article III, §§ 1 and 2 of the Maine Constitution.

"Section 1. The power of the government shall be divided into three distinct departments, the legislative, executive and judicial.

Section 2. No person or persons, belonging to one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted."

While the separation of powers doctrine does not require "three airtight departments of government" (Nixon v. Administrator of General Services, 433 U.S. 425, 443 (1977)), it does operate "to prohibit one branch of government from unduly impeding the operation of a coordinate branch of government." Duplantier v. United States, 606 F.2d 654, 667 (5th Cir. 1979). As an integral part of our constitutional system of checks and balances, the separation of powers doctrine seeks to preserve the independence of each branch of government and to protect each from undue interference by the others.

With respect to the power to discipline judges for misconduct, we believe that the Supreme Judicial Court must be able to exercise its inherent power without intrusion by the other departments of government. In our view, the inherent power of the Supreme Judicial Court to discipline members of the Judiciary is essential to the functioning of the Court as an independent and co-equal department of government. It seems self-evident to us that the ability of the Judicial Department to operate effectively, and thereby fulfill its constitutional mandate to exercise the "judicial power" of the State, would be largely frustrated if its members were subject to discipline by the Legislature. Moreover, to conclude that the Legislature may exercise disciplinary power over judges, other than the ultimate power of removal from office, would, in our view, seriously threaten the independence of the Judiciary, which is "peculiarly essential in a limited constitution." Ex Parte Davis, 41 Me. at 51 quoting Federalist No. 78. Accordingly, it is our opinion that the power to discipline judges for misconduct

is one "properly belonging" to the Judicial Department of government and cannot constitutionally be exercised by either of the other two departments, except as expressly directed or permitted by the Constitution, such as in the case of removal from office. See Me. Const., art. III, §2.

QUESTION NO. 2

"Does Maine Constitution Article III, Section 2, the Separation of Powers Article, preclude the Legislative or Executive Branches of government from exercising disciplinary powers over the Judicial Branch which are not specifically granted to the Legislative or Executive Branches by the Maine Constitution?"

For the reasons stated in response to your first question, we answer your second question in the affirmative.

QUESTION NO. 3

"Does the existence of impeachment and removal by address powers granted by the Maine Constitution, Article IX, Section 5 grant by implication other disciplinary powers over judges to the Legislative or Executive Branches of government?"

For the reasons stated in response to your first question, we answer your third question in the negative.<sup>2</sup>

QUESTION NO. 4

"May the Legislature expand or limit the powers of any branch of government to discipline judges beyond those specifically granted to those branches by the Maine Constitution?"

As noted earlier, the power to remove a judge by impeachment has been committed, by the Constitution, to the Legislative Department of government. Similarly, the power to remove a judge by address resides in the Governor who may act only upon the address of both branches of the Legislature. Finally, the authority to otherwise

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2. It is interesting to note that there is some authority for the proposition that the power to remove a judge from office carries with it the authority to suspend a judge from office during the pendency of a removal proceeding. See Martin v. Dodge County, 146 Minn. 129, 178 N.W. 167 (1920); Maben v. Rosser, 24 Okla. 588, 103 P.674 (1909); Griner v. Thomas, 101 Tex. 36, 104 S.W. 1058 (1907). See generally Judges, 46 Am.Jur.2d §20 at 108 (1969). We emphasize, however, that this suspension power is not viewed as disciplinary in nature, but rather as incidental to an ongoing

discipline a judge is part of the inherent power of the Judicial Department. Consequently, we do not believe that the Legislature may statutorily "expand or limit" these constitutional powers of the three "great" Departments of government. Board of Overseers of the Bar v. Lee, 422 A.2d at 1002. We wish to emphasize, however, that we do not mean to imply that the Legislature may not enact legislation recognizing and implementing these constitutional powers. See In Re Ross, slip op. at 19-20; Board of Overseers of the Bar v. Lee, Me., 422 A.2d at 1002-03; Application of Feingold, Me., 296 A.2d 492, 496 (1972).

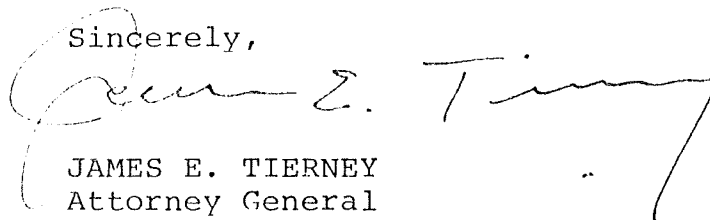
QUESTION NO. 5

"Does the Supreme Judicial Court have the inherent power as a separate but co-equal branch of government to discipline its own members and the power to create its own judicial disciplinary agency to assist it in exercising that power?"

For the reasons stated in response to your first question, we believe that the Supreme Judicial Court does have inherent power to discipline judges, but that such inherent power does not extend to the removal of judges from office. See In Re Ross, supra at 19-20. We also believe that in order to implement this inherent power, and as incidental thereto, the Supreme Judicial Court has the authority to create its own judicial disciplinary agency.

I hope this information is helpful to you. Please<sup>3</sup> feel free to call upon me if I can be of further assistance.

Sincerely,



JAMES E. TIERNEY  
Attorney General

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removal action. Since the question has not been raised in your letter of May 8, 1981, we intimate no opinion as to whether the Legislature possesses such a suspension power under the Maine Constitution.

3. You have orally advised us that you wish to withdraw the sixth question contained in your letter of May 8, 1981.

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Adopted Amendments to the Constitution of Maine**  
**Regarding the Governor’s Pardon Power**

Version	Adopted Constitutional Text
<a href="#">Constitution of Maine (1820)</a>	<p><b>Me. Const. Art. V, Pt. First, §11</b> (Governor’s Executive Power):</p> <p style="padding-left: 40px;"><b>SECT. 11.</b> He shall have power, with the advice and consent of the Council,[*] to remit, after conviction, all forfeitures and penalties, and to grant reprieves and pardons, except in cases of impeachment.</p> <p style="padding-left: 80px;"><i>* Note: The 1820 Constitution of Maine established a 7-member Executive Council “to advise the Governor in the executive part of government.” Council members were chosen by joint ballot of the Senators and Representatives, with no more than one member allowed from any one Senate district.</i></p>
<a href="#">Res. 1875, ch. 98</a> (eff. Jan. 5, 1876)	<p><b>Me. Const. Art. V, Pt. First, §11</b> was amended to read:</p> <p style="padding-left: 40px;"><b>SECT. 11.</b> He shall have power, with the advice and consent of the Council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves <del>and pardons, except in cases of impeachment.</del> <u>commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.</u></p>
<a href="#">Res. 1955, ch. 97</a> (eff. Sept. 26, 1955)	<p><b>Me. Const. Art. V, Pt. First, §11</b> was amended (to add a new sentence) to read:</p> <p style="padding-left: 40px;"><b>SECTION 11.</b> He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. <u>Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency.</u> And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation, or pardon, and the conditions, if any, upon which the same was granted.</p>



**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Adopted Amendments to the Constitution of Maine**  
**Regarding the Governor's Pardon Power**

Version	Adopted Constitutional Text
<a href="#"><u>Res. 1963, ch. 102</u></a> (eff. Nov. 18, 1964)	<p><b>Me. Const. Art. V, Pt. First, §11</b> was amended (to repeal the final sentence) to read:</p> <p><b>SECTION 11.</b> He shall have power, with the advice and consent of the council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency. <del>And he shall communicate to the legislature, at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation,</del></p>
<a href="#"><u>Con. Res. 1975, ch. 4</u></a> (eff. Jan. 4, 1977)	<p><b>Me. Const. Art. V, Pt. First, §11</b> was amended to read:</p> <p><b>Section 11.</b> He shall have the power, <del>with the advice and consent of the Council,</del> to remit after conviction all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency.</p>
<a href="#"><u>Con. Res. 1987, ch. 4</u></a> (eff. Nov. 28, 1988)	<p><i>This Constitutional Resolution amended the Constitution of Maine to use gender-neutral language and to add explanatory headings to each section of the Constitution.</i></p> <p><b>Me. Const. Art. V, Pt. First, §11</b> was amended to read:</p> <p><b><u>Section 11. Power to pardon and remit penalties, etc.; conditions.</u></b> <del>He</del> The Governor shall have power to remit after conviction all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency.</p>

**CRIMINAL RECORDS REVIEW COMMITTEE**

**Failed Proposals to Amend the Constitution of Maine**  
**Regarding Governor’s Pardon Power (or related Legislative Powers)**

Legis.	LD (Sponsor)	Proposed Constitutional Text (not adopted)
50th (1871)	<u>S.D. 2</u> , RESOLVES, Providing for Amendment of the Constitution (Sen. Morris)	<p><i>Would have added new Article 14 to the Constitution, including:</i></p> <p><b><u>SECT. 6.</u></b> <u>The legislature shall not pass local or special laws in any of the following enumerated cases, viz.: For</u></p> <p><u>Granting divorces.</u></p> <p><u>Changing the names of persons or places.</u></p> <p><u>Laying out, opening, altering and working roads or highways.</u></p> <p><u>Vacating roads, town plats, streets, alleys and public grounds.</u></p> <p><u>Locating or changing county seats.</u></p> <p><u>Regulating county and township affairs.</u></p> <p><u>Regulating the practice in courts of justice.</u></p> <p><u>Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.</u></p> <p><u>Providing for change of venue in civil and criminal cases.</u></p> <p><u>Incorporating cities, towns or villages, or amending the charter of any city, town or village.</u></p> <p><u>Summoning and impanelling grand and petit juries.</u></p> <p><u>Providing for the management of common schools.</u></p> <p><u>Regulating the rate of interest on money.</u></p> <p><u>The opening and conducting of any election or designating the place of voting.</u></p> <p><u>The sale or mortgage of real estate belonging to minors or others under disability.</u></p> <p><u>The protection of game or fish.</u></p> <p><u>Chartering or licensing ferries or toll bridges.</u></p> <p><u>Remitting fines, penalties or forfeitures.</u></p> <p><u>Creating, increasing or decreasing fees, percentage or allowance of public officers during the term for which said officers are elected or appointed.</u></p> <p><u>Changing the law of descent.</u></p>

**CRIMINAL RECORDS REVIEW COMMITTEE**

**Failed Proposals to Amend the Constitution of Maine**  
**Regarding Governor’s Pardon Power (or related Legislative Powers)**

Legis. LD (Sponsor)	Proposed Constitutional Text (not adopted)
	<p align="center"><u>Granting to any corporation, association or individual the right to lay railroad tracks, or amending existing charters for such purposes.</u></p> <p align="center"><u>Granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever.</u></p> <p align="center"><u>In all cases where a general law can be made applicable no special law shall be enacted.</u></p>
<p>99th (1959) <a href="#">LD 1213</a>, RESOLVE, Proposing an Amendment to the Constitution to Abolish the Council and Make Changes in the Matter of Gubernatorial Appointments and Their Confirmation (Rep. Plante)</p>	<p><b>Constitution, Article V, Part First, Section 11</b> ... is amended to read as follows:</p> <p><b>Section 11.</b> He shall have power, <del>with the advice and consent of the Council,</del> to remit, after conviction, all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, <del>relative to the manner of applying for pardons.</del></p> <p><i>*Note 1: The printed version of LD 1213 only showed how the first sentence of section 11 would be amended. For convenience, this document shows the proposal within the context of the entire text of section 11.</i></p> <p><i>* Note 2: LD 1213 was not approved by the 99th Legislature. Similarly worded proposed constitutional resolutions—to abolish the Executive Council and amend section 11 in a manner that would broaden the Legislature’s authority by allowing it to enact laws regulating the Governor’s pardon power generally—were considered and rejected by the 100th Legislature (<a href="#">LD 1159</a>), the 102nd Legislature (<a href="#">LD 6</a>), the 103rd Legislature (<a href="#">LD 464</a>), the 104th Legislature (<a href="#">LD 90</a>, <a href="#">LD 571</a>, <a href="#">LD 1324</a>), and the 106th Legislature (<a href="#">LD 12</a>, <a href="#">LD 14</a>, <a href="#">LD 942</a>, <a href="#">LD 1676</a>, <a href="#">LD 1860</a>, <a href="#">LD 2071</a>, and <a href="#">LD 2513</a>).</i></p> <p><i>Ultimately, the 106th Legislature passed and a majority of the voters adopted an alternative constitutional amendment to abolish the Executive Council. See <a href="#">Con. Res. 1975, ch. 4</a> (effective Jan. 4, 1977), described in the separate chart of adopted amendments. That constitutional amendment merely struck the words “with the advice and consent of the Council” from section 11 and thus continued to recognize a limited authority of the Legislature to enact laws regulating only the manner of applying for pardons and not to enact laws regulating the Governor’s pardon power generally.</i></p>

**CRIMINAL RECORDS REVIEW COMMITTEE**

**Failed Proposals to Amend the Constitution of Maine  
Regarding Governor’s Pardon Power (or related Legislative Powers)**

Legis.	LD (Sponsor)	Proposed Constitutional Text (not adopted)
130 <sup>th</sup> (2021)	<a href="#">LD 1187</a> , RESOLUTION, Proposing an Amendment to the Constitution of Maine Amending the Pardon Powers of the Governor (Rep. Martin)	<p><b>Constitution, Art. V, Pt. First, §11</b> is amended to read:</p> <p><b>Section 11. Power to pardon and remit penalties, etc.; conditions.</b> The Governor shall have power <u>after advice from a body created by law and after public notice</u> to remit after conviction all forfeitures and penalties, and to grant reprieves, commutations and pardons, except in cases of impeachment, <del>upon and except</del> <u>during the last 6 months of each 4-year term of office of the Governor, during which time no reprieves, commutations or pardons may be granted.</u> The Governor <u>may impose</u> such conditions, <del>and with such</del> restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency.</p>
131 <sup>st</sup> (2023)	<a href="#">LD 739</a> , RESOLUTION, Proposing an Amendment to the Constitution of Maine to Empower the Legislature to Allow the Expungement or Sealing of Certain Criminal Records (Sen. Hickman)	<p><i>Original proposal:</i></p> <p><b>Constitution, Art. IV, Pt. Third, §24</b> is enacted to read:</p> <p><b>Section 24. Power to expunge or seal criminal records.</b> <u>The Legislature may enact laws to allow for the expungement or sealing of a criminal record on the completion of a sentence served by a person convicted of certain crimes, as the Legislature considers best to rehabilitate convicted persons, protect the public safety and advance restorative justice.</u></p> <p><i>Proposal as amended by a minority of the Judiciary Committee:</i></p> <p><b>Constitution, Art. IV, Pt. Third, §24</b> is enacted to read:</p> <p><b>Section 24. Power to expunge or seal criminal records.</b> <u>The Legislature may enact laws to allow for the expungement or sealing of a criminal record at a time and in a manner the Legislature determines to be appropriate following the completion of a sentence served by a person convicted of certain crimes, as the Legislature considers best to rehabilitate convicted persons, protect the public safety and advance restorative justice. The expungement or sealing of a criminal record does not interfere with the Governor's power to remit after conviction all</u></p>

**CRIMINAL RECORDS REVIEW COMMITTEE**

**Failed Proposals to Amend the Constitution of Maine  
Regarding Governor’s Pardon Power (or related Legislative Powers)**

Legis.	LD (Sponsor)	Proposed Constitutional Text (not adopted)
		<u>forfeitures and penalties and to grant reprieves, commutations and pardons under Article V, Part First, Section 11.</u>
131st (2023)	<u>LD 1536</u> , RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Governor's Power to Reprieve, Pardon and Commute Sentences and Remit Penalties (Sen. Hickman)	<p><b>Constitution, Art. V, Pt. First, §11</b> is repealed and the following enacted in its place:</p> <p><b><u>Section 11. Power to remit fines and forfeitures and grant reprieves, commutations of sentences and pardons; board of pardons; report by Governor to Legislature.</u></b> <u>The Governor has the power to remit fines and forfeitures, subject to rules and regulations prescribed by statute; and, after conviction, to grant reprieves, commutations of sentences and pardons, including cases of juvenile offenses, except in cases of impeachment. The Governor shall nominate and appoint a board of pardons, subject to confirmation as provided in Article V, Part First, Section 8, as prescribed by statute, to hear a recommendation or petition for reprieve, pardon or commutation. The board shall hear the recommendation or petition in open session and give an opinion on the recommendation or petition in writing to the Governor, after which the Governor may grant or refuse the reprieve, commutation or pardon, as the Governor determines best for the public safety. The Governor shall report to the Legislature at each session every remission of fines and forfeitures and every reprieve, commutation or pardon, or denial of reprieve, commutation or pardon, with the Governor's reasons for the denial, and the opinion of the board of pardons in each case required to be referred, stating the name and crime of the person convicted, the sentence, the date of the conviction and the date of the reprieve, commutation or pardon.</u></p>

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 764 - L.D. 1204

**An Act to Improve the Health of Maine Residents by Closing Coverage Gaps  
in the MaineCare Program for Incarcerated Persons**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §3174-CC**, as repealed and replaced by PL 2019, c. 492, §2, is amended to read:

**§3174-CC. Medicaid eligibility during incarceration**

**1. Establish procedures.** The department shall establish procedures to ensure that:

A. A person receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail does not lose Medicaid eligibility as a result of that incarceration and receives assistance with reapplying for benefits if that person's Medicaid coverage expires or is terminated during the term of incarceration; and

B. A person who is not receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail but meets the eligibility requirements for Medicaid receives assistance with applying for federally approved Medicaid services.

**2. Presumptive eligibility.** If a MaineCare provider determines that a person who is incarcerated in a correctional facility, county jail or regional jail who does not have Medicaid coverage is likely to be eligible for services under this section, the provider must be reimbursed for services provided under this section in accordance with 42 Code of Federal Regulations, Section 435.1101.

**3. Memorandum of understanding with Department of Corrections.** The department and the Department of Corrections shall enter into a memorandum of understanding in order to provide an a person who is incarcerated person in a correctional facility with assistance in applying for benefits under this section and section 3104, subsection 17.

**4. Memorandum of understanding with counties.** No later than January 1, 2024, the department shall enter into a memorandum of understanding with counties in this State

that have a county jail or a regional jail in order to provide a person who is incarcerated in a county jail or a regional jail with assistance in applying for benefits under this section.

**5. MaineCare coverage prior to release.** During at least the 90-day period prior to the release of an individual from incarceration in a correctional facility, county jail or regional jail, the department shall provide reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community.

The provisions of this section apply even if Medicaid coverage is limited during the period of incarceration in a correctional facility, county jail or a regional jail. Nothing in this section requires or permits the department to maintain an incarcerated person's Medicaid eligibility if the person no longer meets eligibility requirements.

**Sec. 2. Report regarding memorandums of understanding.** No later than January 1, 2024, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services on the progress made toward entering into memorandums of understanding with counties in the State that have a county jail or a regional jail as required by the Maine Revised Statutes, Title 22, section 3174-CC, subsection 4. The committee may report out legislation related to the report to the Second Regular Session of the 131st Legislature.

**Sec. 3. Federal waiver.** No later than 18 months after the effective date of this Act, the Department of Health and Human Services shall apply to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for a waiver pursuant to Section 1115 of the United States Social Security Act to provide during at least the 90-day period prior to the release of an individual from incarceration in a correctional facility, county jail or regional jail reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community.

**Sec. 4. Appropriations and allocations.** The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF**

**Correctional Medical Services Fund 0286**

Initiative: Deappropriates funding for medical services that will now be covered by the MaineCare program.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$0	(\$1,115,715)
<b>GENERAL FUND TOTAL</b>	<hr/>	<hr/>
	\$0	(\$1,115,715)

**CORRECTIONS, DEPARTMENT OF  
DEPARTMENT TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>GENERAL FUND</b>	\$0	(\$1,115,715)
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<hr/>	<hr/>
	\$0	(\$1,115,715)

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding for the Department of Health and Human Services to provide reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community, for at least the 90-day period prior to release of an individual from incarceration in a county jail, regional jail or a correctional facility.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$0	\$433,232
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$433,232</b>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$0	\$2,800,724
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$2,800,724</b>

**Office for Family Independence Z020**

Initiative: Provides one-time funding for required technology development and testing.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$31,725	\$0
<b>GENERAL FUND TOTAL</b>	<b>\$31,725</b>	<b>\$0</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$97,472	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$97,472</b>	<b>\$0</b>

**Office for Family Independence - District 0453**

Initiative: Provides funding to establish one Eligibility Specialist position.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
Personal Services	\$20,788	\$21,793
All Other	\$1,634	\$1,634
<b>GENERAL FUND TOTAL</b>	<b>\$22,422</b>	<b>\$23,427</b>

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2023-24</b>	<b>2024-25</b>
<b>POSITIONS - LEGISLATIVE COUNT</b>	<b>1.000</b>	<b>1.000</b>
Personal Services	\$62,364	\$65,380
All Other	\$6,526	\$6,599
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$68,890</b>	<b>\$71,979</b>



**Office of MaineCare Services 0129**

Initiative: Provides one-time funding for required technology development and testing.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$94,422	\$0
<b>GENERAL FUND TOTAL</b>	<u>\$94,422</u>	<u>\$0</u>

<b>FEDERAL EXPENDITURES FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$290,103	\$0
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$290,103</u>	<u>\$0</u>

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF  
DEPARTMENT TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>GENERAL FUND</b>	<b>\$148,569</b>	<b>\$456,659</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$290,103</b>	<b>\$2,800,724</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$166,362</b>	<b>\$71,979</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$605,034</b></u>	<u><b>\$3,329,362</b></u>

**SECTION TOTALS**

	<b>2023-24</b>	<b>2024-25</b>
<b>GENERAL FUND</b>	<b>\$148,569</b>	<b>(\$659,056)</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>\$290,103</b>	<b>\$2,800,724</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$166,362</b>	<b>\$71,979</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<u><b>\$605,034</b></u>	<u><b>\$2,213,647</b></u>

**Sec. 5. Contingent effective date.** The Maine Revised Statutes, Title 22, section 3174-CC, subsection 5 does not take effect unless:

1. The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services approves the federal waiver sought under section 3; and
2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval for the waiver has been received.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

H.P. 845 - L.D. 1167

**An Act Relating to Fair Chance in Employment**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 26 MRSA §600-A** is enacted to read:

**§600-A. Criminal history record information; employment application**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Criminal history record information" has the same meaning as in Title 16, section 703, subsection 3.

B. "Employer" means a person in this State who employs individuals. "Employer" includes municipalities and political subdivisions of the State, but does not include an employer of an individual who holds a position in the legislative, executive or judicial branch of State Government or a position with a quasi-independent state entity or public instrumentality of the State. "Employer" includes a person acting in the interest of an employer directly or indirectly.

**2. Initial employee application form.** Except as provided in subsection 4, an employer may not:

A. Request criminal history record information on the employer's initial employee application form; or

B. State on an initial employee application form or advertisement or specify prior to determining a person is otherwise qualified for the position that a person with a criminal history may not apply or will not be considered for a position.

**3. Interviews.** An employer may inquire about a prospective employee's criminal history record information during an interview or once the prospective employee has been determined otherwise qualified for the position. An employer that inquires about a prospective employee's criminal history record information shall afford to the prospective employee the opportunity to explain the information and the circumstances regarding any convictions, including post-conviction rehabilitation.

**4. Exceptions for initial employee application form.** An employer may inquire about criminal convictions on an initial employee application form or state on an initial

employee application form or advertisement or otherwise assert that a person with a criminal history may not apply or will not be considered for a position if:

A. The position is one for which a federal or state law or regulation or rule creates a mandatory or presumptive disqualification based on a conviction for one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the disqualification; or

B. The employer is subject to an obligation imposed by a federal or state law or regulation or rule not to employ in a position a person who has been convicted of one or more types of criminal offenses, and the questions on the initial employee application form are limited to the types of criminal offenses creating the obligation.

**5. Penalty.** This section must be enforced pursuant to section 626-A.

**Sec. 2. 26 MRSA §626-A, first ¶,** as amended by PL 2019, c. 35, §2, is further amended to read:

Whoever violates any of the provisions of section 600-A, sections 621-A to 623 or section 626, 628, 628-A, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.

## CHAPTER 341

## OCCUPATIONAL LICENSE DISQUALIFICATION ON BASIS OF CRIMINAL RECORD

**§5301. Eligibility for occupational license, registration or permit**

**1. Effect of criminal history record information respecting certain convictions.** Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.

[PL 1989, c. 84, §1 (AMD).]

**2. Criminal history record information which may be considered.** A licensing agency may use in connection with an application for an occupational license, registration or permit criminal history record information pertaining to the following:

A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement; [PL 1977, c. 287, §1 (RPR).]

B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [PL 1977, c. 287, §1 (RPR).]

C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [PL 1989, c. 84, §1 (AMD).]

D. Convictions for which incarceration for one year or more may be imposed; or [PL 1989, c. 84, §1 (AMD).]

E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board. [PL 2011, c. 286, Pt. O, §1 (AMD); PL 2015, c. 429, §23 (REV).]

[PL 2011, c. 286, Pt. O, §1 (AMD); PL 2015, c. 429, §23 (REV).]

## SECTION HISTORY

PL 1975, c. 150 (NEW). PL 1977, c. 287, §1 (RPR). PL 1989, c. 84, §1 (AMD). PL 1993, c. 600, §§B20-22 (AMD). PL 1995, c. 131, §1 (AMD). PL 1995, c. 162, §1 (AMD). PL 1995, c. 625, §A11 (AMD). PL 2005, c. 347, §A1 (AMD). PL 2007, c. 369, Pt. A, §1 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF). PL 2011, c. 286, Pt. O, §1 (AMD). PL 2015, c. 429, §23 (REV).

**§5302. Denial, suspension, revocation or other discipline of licensees because of criminal record**

**1. Reasons for disciplinary action.** Licensing agencies may refuse to grant or renew, or may suspend, revoke or take other disciplinary action against any occupational license, registration or permit on the basis of the criminal history record information relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant, licensee, registrant or permit holder so convicted has not been sufficiently rehabilitated to warrant the public trust. The applicant, licensee, registrant or permit holder shall bear the burden of proof that there exists sufficient rehabilitation to warrant the public trust.

[PL 1989, c. 84, §2 (AMD).]

**2. Reasons to be stated in writing.** The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant, licensee, registrant or permit holder from practicing the profession, trade or occupation if that decision is based in whole or in part on conviction of any crime described in section 5301, subsection 2.

[PL 1989, c. 84, §2 (AMD).]

#### SECTION HISTORY

PL 1975, c. 150 (NEW). PL 1977, c. 287, §§2,3 (AMD). PL 1989, c. 84, §2 (AMD).

#### §5303. Time limit on consideration of prior criminal conviction

**1. Three-year limits.** Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within 3 years of the applicant's or licensee's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee.

[PL 1989, c. 84, §3 (NEW).]

**2. Ten-year limits.** For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy and the Emergency Medical Services' Board, for applicants to and licensees of the Department of Agriculture, Conservation and Forestry for growing, processing and transporting hemp and for applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

[PL 1995, c. 625, Pt. A, §12 (RPR).]

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. [PL 1995, c. 625, Pt. A, §12 (RPR).]

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

[PL 1995, c. 625, Pt. A, §12 (RPR).]

[PL 2021, c. 761, §1 (AMD).]

#### SECTION HISTORY

PL 1975, c. 150 (NEW). PL 1989, c. 84, §3 (RPR). PL 1993, c. 600, §§B20-22 (AMD). PL 1995, c. 131, §2 (AMD). PL 1995, c. 162, §2 (AMD). PL 1995, c. 625, §A12 (AMD). PL 2005, c. 347, §A2 (AMD). PL 2007, c. 369, Pt. A, §2 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF). PL 2015, c. 429, §23 (REV). PL 2017, c. 288, Pt. A, §12 (AMD). PL 2021, c. 761, §1 (AMD).

#### §5304. Appeals

Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the District Court designated in chapter 375. [PL 1999, c. 547, Pt. B, §14 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

#### SECTION HISTORY

PL 1975, c. 150 (NEW). PL 1987, c. 402, §A54 (AMD). PL 1999, c. 547, §B14 (AMD). PL 1999, c. 547, §B80 (AFF).

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## State of Maine Judicial Branch



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## Criminal Cases

**On August 9, 2024, changes to Maine law regarding sealing the record of certain criminal convictions went into effect.** As of this date, individuals may file a request with the court to seal the record of their conviction if they meet the requirements set forth in the statute. **Sealing is not automatic.** [Learn more about sealing your criminal record \(sealing.html\).](#)

Criminal cases are brought by the State against persons accused of committing a crime. The State brings the charge because a crime is considered an offense against society. Normally, the local District Attorney's office represents the State and prosecutes the case against a defendant. If the defendant is found guilty, the penalty may be imprisonment, a fine, probation or other supervised release, or a combination of these. If a fine is assessed, it is paid to the State, not to the victim of the crime. In some cases, however, the judge may also order the defendant to make restitution to the victim for any losses caused by the crime. Regardless of whether restitution is or is not ordered, the victim may recover compensation for the losses by bringing a civil action against the offender.



## Arraignment in Maine

Maine Judicial Branch

17:14

View arraignment video in: [Arabic / العربي \(https://vimeo.com/507068997\)](https://vimeo.com/507068997), [ASL \(https://vimeo.com/400255712\)](https://vimeo.com/400255712), [French/français \(https://vimeo.com/400010347\)](https://vimeo.com/400010347), [Portuguese/português \(https://vimeo.com/400016222\)](https://vimeo.com/400016222), [Spanish/Español \(https://vimeo.com/400224156\)](https://vimeo.com/400224156), [Somali/soomaali \(https://vimeo.com/400228396\)](https://vimeo.com/400228396).

Criminal offenses are divided by the [Maine Criminal Code \(http://legislature.maine.gov/legis/statutes/17-A/title17-Ach0sec0.html\)](http://legislature.maine.gov/legis/statutes/17-A/title17-Ach0sec0.html) into classes according to the seriousness of the offense and the penalty. Classes A, B and C are the more serious offenses; Classes D and E, the least. Murder, the most serious crime, has separate sentencing provisions. The principal offenses in each class are summarized in Table I.

## Criminal Offenses

Class	Examples of Offenses	Penalty
Murder	Murder	25 years imprisonment to life with no possibility of release.
A	Manslaughter, kidnapping, rape, arson	Not to exceed 30 years imprisonment and/or \$50,000 fine.
B	Aggravated assault, drug trafficking, burglary of a residence	Not to exceed 10 years imprisonment and/or \$20,000 fine.
C	Perjury, burglary, theft of \$1,000 - \$5,000	Not to exceed 5 years imprisonment and/or \$5,000 fine.
D	Assault, operating under the influence, theft of property, the value of which is between \$1,000 - \$2,000	Not to exceed 1 year imprisonment and/or \$2,000 fine.
E	Disorderly conduct, operating after suspension, theft of property, the value of which is less than \$1,000	Not to exceed 6 months imprisonment and/or \$1,000 fine.

*Note: For any of these offenses except murder the judge may also impose a period of probation (with a variety of special conditions), order restitution, order the defendant to perform community service, or a combination of*



*these.*

The purpose of a **criminal trial** is to determine whether the defendant is guilty or not guilty of the charge. Since the penalty for a crime may be very serious, including the deprivation of liberty, the State is held to a high standard of proof. The law presumes that the defendant is innocent, and the State must prove his or her guilt beyond a **reasonable doubt**. Because the defendant does not have to prove innocence, the finding is not guilty, rather than innocent, if the State fails to meet its **burden of proof**.

Except for most motor vehicle criminal violations, and some hunting and fishing offenses, persons under the age of 18 who are charged with criminal conduct are considered to be juveniles. Procedure in a juvenile case is different from that in an adult case. An intake worker advises the District Attorney whether to prosecute. The trial is heard in District Court by a judge alone. Trials of Class D and E offenses are closed to the public. A juvenile murder trial and trials of Class A, B and C offenses are open to the public. A juvenile who is charged with murder, or a Class A, B or C offense may be tried as an adult, when certain legal conditions are met.

## Related Links

- [Sealing Your Criminal Record](#)
- [Maine Commission on Public Defense Services](#)
- [Maine Pretrial Services](#)
- [Maine Department of Corrections](#)
- [Maine County Commissioners Association's List of District Attorney's Offices](#)
- [Maine Treatment Courts](#)
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# Sealing Your Criminal Record

On August 9, 2024, changes to Maine law regarding sealing the record of certain criminal convictions went into effect. As of this date, individuals may file a request with the court to seal the record of their conviction if they meet the requirements set forth in the statute. **Sealing is not automatic.**

## Criminal convictions eligible for sealing

Criminal convictions that can be sealed under this process are:

- A current or former Class E crime (except for certain [sexual assaults](https://legislature.maine.gov/statutes/17-A/title17-Ach11sec0.html) (<https://legislature.maine.gov/statutes/17-A/title17-Ach11sec0.html>));
- A conviction for certain marijuana-related crimes described below (if the crime was committed prior to January 30, 2017):
  - Aggravated trafficking, furnishing or cultivation of scheduled drugs under Title 17-A, *former* section 1105 when
    - the person was convicted of cultivating scheduled drugs,
    - the scheduled drug was marijuana, and
    - the crime committed was a Class D crime.
  - Aggravated cultivating of marijuana under [Title 17-A, section 1105-D](https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html) (<https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html>), subsection 1, paragraph A, subparagraph (4);
  - Aggravated cultivating of marijuana under [Title 17-A, section 1105-D](https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html) (<https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html>), subsection 1, paragraph B-1, subparagraph (4);
  - Aggravated cultivating of marijuana under [Title 17-A, section 1105-D](https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html) (<https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html>), subsection 1, paragraph D, subparagraph (4); and
  - Unlawful possession of a scheduled drug under Title 17-A, *former* section 1107 when
    - that drug was marijuana, and
    - the underlying crime was a Class D crime.

## Additional requirements

If a conviction is eligible for sealing, the following additional requirements must be met:

- It has been at least 4 years since you fully completed the sentence imposed, including any imprisonment, probation, administrative release, fine payments, license suspension, restitution and/or community service.
- You have no other adult criminal convictions in Maine and have not had a case dismissed because of a deferred disposition since completing your sentence for this offense.

- You have no other criminal convictions in another state or jurisdiction since completing your sentence for this offense.
- You have no pending criminal charges in Maine or in another state or federal court.

## Process to request that a conviction be sealed

The Judicial Branch provides a court form, [Motion to Seal Criminal History \(CR-218\)](https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=CR-218) (<https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=CR-218>), on the [Forms](https://www.courts.maine.gov/forms/index.html) (<https://www.courts.maine.gov/forms/index.html>) page of the website. A paper version of this form can also be obtained from any District Court clerk's office. Complete the form and return to the clerk's office for the court in which the conviction occurred.

You may hire an attorney to help file the Motion to Seal, or you may file the Motion yourself (pro se). The State will be represented by the prosecutor's office that handled the original case.

The court will schedule a hearing. At the hearing the court will review the statutory requirements and will grant the motion and order the conviction sealed if you have shown that each requirement has been met by a preponderance of the evidence (more likely than not).

If the motion is granted and an order sealing conviction is issued, the court will send notice of the sealing to the [State Bureau of Identification](https://www.maine.gov/dps/msp/about/sbi) (<https://www.maine.gov/dps/msp/about/sbi>) (the agency maintaining criminal history records for the State of Maine). The State Bureau of Identification will then seal the conviction and mail a notice to you that this has been done.

[See 15 M.R.S. § 2264](https://legislature.maine.gov/statutes/15/title15sec2264.html) (<https://legislature.maine.gov/statutes/15/title15sec2264.html>) (Post-Judgment Motion to Seal Criminal History Record; Motion and hearing; process).

## What is "sealing"?

If your Maine criminal conviction is sealed under this process, it means that you may respond to inquiries from persons other than criminal justice agencies, the court, and other entities described in 15 M.R.S. § 2265 as if the conviction had not occurred. The record is not completely erased (Maine does not have "expungement"), but the record will not be disclosed to third parties, including employers, lenders, landlords, school admissions officers, and others.

## Related Links

- [State Bureau of Identification](https://www.maine.gov/dps/msp/about/sbi)
- [Motion to Seal Criminal History \(CR-218\)](https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=CR-218)
- [Juvenile Court: Confidentiality & Court Records](https://www.courts.maine.gov/forms/index.html)
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## Administrative Office of the Courts

P.O. Box 4820

Portland, ME 04112-0792

Phone: (207) 822-0792

TTY: 711 Relay

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**Number of Individuals Convicted of Criminal Offenses, 2019 - 2023**

<b>Class/Severity of Offense</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Murder</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>7</b>	<b>6</b>
<b>Any Felony</b>	<b>2,484</b>	<b>1,496</b>	<b>1,792</b>	<b>2,077</b>	<b>2,417</b>
Class A	140	92	158	177	212
Class B	715	424	557	643	730
Class C	1,952	1,199	1,405	1,628	1,914
<b>Any Misdemeanor</b>	<b>20,173</b>	<b>11,559</b>	<b>12,133</b>	<b>13,409</b>	<b>14,300</b>
Class D	9,160	5,482	6,499	7,227	7,763
Class E	14,128	7,931	7,954	8,754	9,479
<b>Any Conviction (Total)</b>	<b>21,333</b>	<b>12,190</b>	<b>12,864</b>	<b>14,140</b>	<b>15,203</b>

The counts above show the number of unique defendants who were convicted of a criminal offense during the calendar year indicated in each column. To be counted in a category, the defendant must have a conviction for at least one offense of that type during the indicated year.

Please note that the categories above **cannot** be summed. Defendants can be charged with and convicted of multiple offenses of different classes, both within a single case and across multiple cases. Because of this overlap, a defendant may be counted in multiple categories and across multiple years in the counts above.

## Stocco, Janet

---

**From:** Maeghan Maloney <mmaloney@kennebecda.com>  
**Sent:** Monday, August 12, 2024 2:11 PM  
**To:** Stocco, Janet; Doherty, Amanda; Avery, Kent  
**Cc:** Paddon, Sophia  
**Subject:** Re: Information request from CRRC -- Maine conviction data  
**Attachments:** CrossDistrict\_ConvictedCases\_By\_Year\_Class\_and\_UniqueName.xlsx

**This message originates from outside the Maine Legislature.**

See attached the response to your inquiry as well as the explanation in the email below:

Maeghan,

I apologize that this did not get finished last week. Last week was busier than I expected. But the requested data is attached now. Hopefully this is not too late.

I have generated numbers based on the total number of unique cases (using only the highest class of offense with conviction info). Then I generated a separate set of numbers that reduces to only the unique names by district and class of crime, as this appears to be part of the data that they were looking for. You can expand the summary data to see the counts by district as well, by clicking on the plus sign to the left of the row. Obviously, the 2024 data is year-to-date only.

I would be interested to see how this compares to the data provided by the court.

Thanks,  
Joe

Joseph Maranda  
Director Maine District Attorney Technical Services  
Office 207 622-3022, Cell 617 620-4367

**Maeghan Maloney**  
**District Attorney**  
**Kennebec and Somerset Counties**

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**From:** Stocco, Janet <Janet.Stocco@legislature.maine.gov>  
**Sent:** Thursday, July 25, 2024 1:08 PM  
**To:** Doherty, Amanda <amanda.doherty@courts.maine.gov>; Maeghan Maloney <mmaloney@kennebecda.com>; Kent Avery <kent.avery@maine.gov>

# Convicted Case Summary Information

Only Convicted Cases by Highest Class with Disposition Data

By Unique Case ID

By Unique Name  
(Should be less than or equal to results on left)

	A	B	C	D	E	NULL	V	Total		A	B	C	D	E	NULL	V	Total
2014	154	876	2930	11247	19116	173	3110	37606	2014	146	767	2450	10196	16332	165	2900	29557
2015	167	874	2949	11305	18109	176	2847	36427	2015	156	760	2407	10234	15452	167	2677	28627
2016	158	867	2697	11340	17937	189	2392	35580	2016	152	763	2241	10238	15153	180	2258	27715
2017	123	796	2623	11088	17171	226	1833	33860	2017	123	722	2148	10009	14540	210	1748	26528
2018	116	746	2554	10839	16530	239	1859	32883	2018	114	690	2117	9721	14017	230	1773	25652
2019	122	629	2298	9998	13748	201	1822	28818	2019	120	589	1888	8924	11590	196	1761	22426
2020	133	567	2073	7901	9248	215	1164	21301	2020	131	542	1701	7002	7763	207	1136	16282
2021	117	526	2032	7550	8240	186	1039	19690	2021	116	503	1676	6736	6934	179	1010	15183
2022	107	498	1906	6941	8087	163	1467	19169	2022	104	471	1575	6135	6940	158	1420	14961
2023	72	330	1424	5894	6946	119	1548	16333	2023	70	308	1177	5332	5867	113	1476	12895
2024	10	33	285	1366	1968	11	676	4349	2024	9	33	244	1272	1779	11	664	3768
<b>Total</b>	<b>1279</b>	<b>6742</b>	<b>23771</b>	<b>95469</b>	<b>137100</b>	<b>1898</b>	<b>19757</b>	<b>286016</b>	<b>Total</b>	<b>1218</b>	<b>5716</b>	<b>15070</b>	<b>69062</b>	<b>89517</b>	<b>1740</b>	<b>17521</b>	<b>153529</b>



## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
<p><b>California</b> 2019, <a href="#">AB1076</a>; amended in 2022 by <a href="#">SB731</a> and <a href="#">SB1260</a></p> <p><a href="#">(CA. Penal Code §§1203.4, 1203.4a, 1203.42, 1203.425)</a></p>	<p>Automatic clearing of a record is referred to as “relief granted” in the form of a set-aside and dismissal of convictions and arrests that result in the sealing of a criminal record. A person eligible for automatic record clearing must not have an active record for local, state or federal supervision. Based on information in the DOJ record, the person may not be currently serving a sentence for any offense and may not have any pending criminal charges.</p> <p><b>Arrests:</b> A person arrested on or after January 1, 1973 will be eligible for automatic relief if any of the following are true:</p> <ul style="list-style-type: none"> <li>• The arrest was for a misdemeanor and either the charge was dismissed, the person was acquitted of any charges, or <b>at least 1 year has elapsed since the arrest</b> and there is no indication that criminal proceedings have been initiated;</li> <li>• The arrest was for a felony punishable by imprisonment in county jail, and either the person was acquitted of any charges, or <b>at least 3 years have elapsed since the arrest</b> and there is no indication that criminal proceedings have been initiated; or</li> <li>• The person successfully completed one of various specified diversion programs</li> </ul>	<p>A person who was previously convicted of a qualifying misdemeanor or felony, and who has successfully completed their sentence, is usually eligible to petition the court to set-aside the conviction.</p> <p>Almost all misdemeanor convictions are eligible for set-aside, as are some felony convictions:</p> <ul style="list-style-type: none"> <li>• A person with a misdemeanor conviction who was under 18 at the time their crime was committed.</li> <li>• A marijuana conviction based on conduct that is no longer criminal.</li> <li>• A person with a misdemeanor not sentenced to probation, and infractions (including traffic infractions, possession of small amounts of marijuana), may apply for change of plea and dismissal of charges <b>one year from entry of judgment</b>, if the petitioner can show, in addition to successful completion of probation and no charges pending, that they have, “since the pronouncement of judgment, lived an honest and upright life and have conformed to and obeyed the laws of the land.”</li> <li>• A person with a violent felony conviction who has fully served their sentence, including probation, and has gone four <b>years</b> without being convicted of a new felony offense.</li> <li>• A person with a minor felony offense sentenced to county jail (and those that would have been eligible for such a sentence if law has subsequently changed) <b>one or two years following</b></li> </ul>	<p>Sex offenses or offenses requiring registering as a sex offender.</p>	<ul style="list-style-type: none"> <li>• Convictions and arrests that are eligible for a set-aside and dismissal (referred to as <b>expunged</b>) through the petition process are not sealed from public view and will still show up on a background check as dismissed.</li> <li>• Convictions and arrests that are eligible for a set-aside and dismissal through the automatic relief process are sealed from public view and should not show up on a background check. Certain law enforcement officials, the courts and the DA has access to the records. <a href="#">CA. Penal Code §1203.4</a></li> </ul>	<ul style="list-style-type: none"> <li>• All state summary criminal history information in all statewide criminal databases “include” next to or below the entry “relief granted” and the date.</li> <li>• A person can answer a question on an employment application or other document that they were never “convicted” of the crime.</li> <li>• A person granted relief “is released from all penalties and disabilities resulting from the offense of which the person was convicted,” except that the relief does not affect: <ul style="list-style-type: none"> <li>○ the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, public office, or for contracting with the California State Lottery Commission;</li> <li>○ the ability of a criminal justice agency to access and use records;</li> <li>○ the jurisdiction of the court over a subsequently filed motion to amend the record, petition or motion for postconviction relief, or collaterally attack a conviction;</li> <li>○ a person’s authorization to own or possess any firearm;</li> <li>○ a prohibition from holding public office;</li> </ul> </li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
	<p><b>Convictions:</b> A person convicted on or after January 1, 1973 will be eligible for automatic relief if any of the following are true:</p> <ul style="list-style-type: none"> <li>• The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department’s records, appears to have completed their term of probation without revocation; or</li> <li>• The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department’s records, the defendant appears to have completed their sentence, and <b>at least one calendar year has elapsed since the date of judgment</b>; or</li> <li>• The defendant was convicted of a non-violent or non-sexual felony and has finished serving their sentence and any required supervision and <b>at least four years have passed</b> and the person has not reoffended.</li> <li>• The person is not required to register under the Sex Offender Registration Act.</li> </ul>	<p><b>the defendant’s completion of the sentence</b>, provided that the defendant is not currently serving a sentence or charged with the commission of any offense.</p>			<ul style="list-style-type: none"> <li>○ the authority to receive, or take adverse action based on, criminal history information or certified court records under various sections of the Health and Safety Code, or other provisions that incorporate those criteria;</li> <li>○ eligibility to provide, or receive payment for providing, in-home supportive services; or</li> <li>○ pleading and proof of the prior conviction in any subsequent prosecution of the defendant.</li> <li>○ Any existing duty to register as a sex offender pursuant to <a href="#">CA. Penal Code §290</a></li> <li>• Courts may not disclose information concerning the conviction to any person or entity, except to the person granted relief or a criminal justice agency.</li> <li>• The state records repository system is prohibited from disclosing conviction records that have been dismissed or set aside, whether automatically or by petition, in response to certain requests for background information to be used for employment, licensing or certification.</li> <li>• A person applying for teaching license, may not be disqualified for any</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
					<b>expunged</b> drug possession convictions more than five years old.
<b>Colorado</b> 2022, <a href="#">SB99</a>	<p>All offenses currently eligible for petition-based sealing, including records involved in diversion agreements and records associated with status as a victim of human trafficking are eligible for automatic record clearing.</p> <ul style="list-style-type: none"> <li><b>Waiting periods are 4 years</b> for civil infractions, <b>7 years for misdemeanors and 10 years</b> for eligible felonies.</li> <li>Payment of outstanding fees or fines is not a condition for automatic sealing.</li> <li>Arrest records that did not result in a conviction may be sealed immediately.</li> <li>Convictions which have been pardoned are automatically sealed.</li> </ul> <p>*Note: Automatic clearing of records for civil infractions and misdemeanors is scheduled to begin in July 2024, while automatic clearing of records of eligible felony offenses begin in July 2025.</p>	<ul style="list-style-type: none"> <li>Convictions from petty offenses to certain less serious felonies, including but not limited to drug crimes, are eligible for sealing. Eligibility <b>waiting periods</b> range from <b>one year</b> in the case of petty offenses, to <b>three years</b> for misdemeanors and lower-level felonies, to <b>five years</b> for all other eligible felonies.</li> <li>Municipal violations after a <b>three-year waiting period</b> during which the person has not been charged with or convicted of a felony or misdemeanor. <a href="#">Colo. Rev. Stat. §24-72-708</a></li> <li>Arrest records that did not result in a conviction may be sealed immediately</li> </ul>	<ul style="list-style-type: none"> <li>Class 1, 2 and 3 felonies are ineligible for sealing (except for class 3 felony marijuana cultivation before Oct. 1, 2013), as are other specified crimes involving sexual offenses, traffic offenses, and a long list of other crimes involving violence or dangerous conduct. <a href="#">Colo. Rev. Stat. §24-72-706(2)(a)</a></li> </ul>	<ul style="list-style-type: none"> <li>A record that is sealed is no longer accessible to the public.</li> <li>The record is <b>NOT destroyed</b> and remains available to criminal justice agencies, the court and the District Attorney.</li> <li>If an individual’s record is sealed and the individual is convicted at a later date, the sealed record may be unsealed by the court and/or available to the court, probation and the District Attorney in sentencing.</li> <li>Sealing a conviction does NOT vacate the conviction. <a href="#">Colo. Rev. Stat. §24-72-703</a></li> </ul>	<ul style="list-style-type: none"> <li>Employers, landlords, and state and local government agencies are generally prohibited from requiring applicants to disclose any information contained in sealed records.</li> <li>Upon the entry of an order to seal the conviction records, the defendant and all criminal justice agencies may properly reply, upon an inquiry in the matter, that public conviction records do not exist with respect to the defendant.</li> <li>An order sealing conviction records does not deny access to courts and law enforcement agencies, or any “party or agency required by law to conduct a criminal history record check on an individual.</li> <li>Sealing does not vacate the conviction, and it may be used in subsequent prosecutions</li> <li>Some organizations, including the bar committee, the Department of Education, and criminal justice agencies, may still have access to some information in sealed records.</li> <li>Requires consumer reporting agencies to exclude sealed records from their report.</li> </ul>
<b>Connecticut</b> 2021, <a href="#">Public Act 21-42</a>  <a href="#">(Conn. Gen Stat. §54-142a, §54-142c)</a>	<p>Establishes a process to automatically erase records of most misdemeanor convictions and certain less serious felony convictions entered after January 1, 2000, after a specified period following the person’s most recent conviction for any crime.</p>	<ul style="list-style-type: none"> <li>Convictions and other criminal records in cases where the charges resulted in conviction and the offense has subsequently been decriminalized.</li> <li>A person who has been granted an absolute pardon.</li> <li>Decriminalized marijuana convictions, including possession of a</li> </ul>	<ul style="list-style-type: none"> <li>Class A, B or C felonies, certain unclassified felonies, domestic violence crimes or crimes requiring sex offender registration.</li> <li>The state Department of Motor Vehicles is not</li> </ul>	<p>In Connecticut, erasure, sometimes called <b>expungement</b>, means that all records are sealed and the conviction is considered to have never existed. A person with an erasure may swear under oath that they have not been arrested or convicted for the crime. <a href="#">Conn. Gen. Stat. §54-142a</a></p>	<ul style="list-style-type: none"> <li>If a case contained multiple charges and only some are entitled to erasure, electronic records released to the public must be erased to the extent they reference charges entitled to erasure.</li> <li>Requires all purchasers of court records, including background</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
	<p>Eligible records include:</p> <ul style="list-style-type: none"> <li>The conviction of a person convicted after January 1, 2020, of a Class D or E felony or an unclassified felony with prison time of five or fewer years will be erased after <b>10 years</b>.</li> <li>The conviction of a person convicted after January 1, 2020, of a Class C felony or unclassified felonies with prison terms greater than five years, but no more than 10 years, will be erased after <b>15 years</b>.</li> <li>Misdemeanor convictions after January 1, 2020 become eligible for erasure after <b>seven years</b>.</li> <li>To be eligible, a person must also have finished serving the sentences for all crimes they have been convicted of committing. <a href="#">Conn. Gen. Stat. §54-142a</a></li> </ul> <p>*Note: As of January 2024, the state began automatically expunging eligible criminal records; the process was scheduled to begin in 2023, but was delayed due to technology upgrades required.</p>	<p>cannabis-type substance if the amount possessed was less than or equal to four ounces of such substance or manufacturing, distributing, selling, prescribing, compounding, transporting with the intent to sell or dispense, possessing with the intent to sell or dispense, offering, giving or administering to another person a cannabis-type substance if the amount involved was less than or equal to four ounces or six plants grown inside such person’s own primary residence for personal use.</p> <ul style="list-style-type: none"> <li>Beginning January 1, 2023, for offenses occurring before January 1, 2020, a person may file a petition on a form prescribed by the Office of the Chief Court Administrator to request record relief of a past conviction. <b>The same offenses are eligible and waiting periods are applicable as for the automatic record clearing process.</b></li> </ul>	<p>required under law to erase criminal history records.</p>		<p>screening providers, to update their records on a regular basis. It extends these provisions to records of other agencies (State Police, DMV, Department of Correction).</p> <ul style="list-style-type: none"> <li>Prohibits various forms of discrimination based on someone’s erased criminal history record information, such as in employment, public accommodations, the sale or rental of housing, the granting of credit, and several other areas.</li> <li>Prohibits employers from requiring a job applicant with erased criminal records to disclose those records, denying employment based on an applicant’s erased criminal history record, or inquiring about an applicant’s criminal history on a job application unless it contains, in a clear and conspicuous manner, a notice, in clear and conspicuous language, that the applicant is not required to disclose the existence of any erased arrest, criminal charge, or conviction.</li> </ul>
<p><b>Delaware</b> 2021, <a href="#">SB 111</a>, enacting <a href="#">Del. Code tit. 11, §4371 et. seq.</a></p>	<ul style="list-style-type: none"> <li>All records eligible for <b>mandatory expungement</b> (see column to the right) are eligible for automatic record clearing after August 1, 2024.</li> </ul> <p>Other records eligible for automatic record clearing include:</p> <ul style="list-style-type: none"> <li>An individual was arrested or charged with the commission of 1 or more crimes and the case is terminated in favor of the accused.</li> </ul>	<p><b>Expungement</b> is separated into categories: mandatory and discretionary. The State Bureau of Investigation is responsible for expunging records in the mandatory category upon an individual’s request and the courts are responsible for acting on petitions for discretionary <b>expungement</b>.</p> <p><b>Mandatory expungement:</b></p> <ul style="list-style-type: none"> <li>An individual was arrested or charged with the commission of one or more</li> </ul>	<p>Misdemeanors involving domestic violence, offenses where the victim is a child, offenses where the victim is a “vulnerable adult, sexual harassment, and other crimes against persons are not eligible for mandatory expungement.</p>	<p>“<b>Expungement</b>” means that all law-enforcement agency records and court records relating to a case in which an <b>expungement</b> is granted, including any electronic records are segregated, or placed in the custody of the State Bureau of Identification, and are not released in conjunction with any inquiry beyond those specifically authorized under law. <a href="#">Del. Code tit. 11, §4372(c)(4)</a></p>	<ul style="list-style-type: none"> <li>Law enforcement in the lawful performance of their duties in investigating criminal activity or for the purpose of an employment application as an employee of a law-enforcement agency and the courts may still have access to an <b>expunged</b> record.</li> <li>A person is not required to disclose, nor should the person be asked to disclose, to anyone for any purpose that the person was arrested for,</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
	<ul style="list-style-type: none"> <li>• An individual was convicted of 1 or more violations relating to the same case; <b>3 years have passed since the date of conviction;</b> and the person has no prior or subsequent convictions.</li> <li>• An individual was convicted of 1 or more misdemeanors, or a combination of 1 or more misdemeanors and 1 or more violations, relating to the same case; <b>5 years have passed since the date of conviction;</b> and the person has no prior or subsequent convictions.</li> <li>• Felony drug possession convictions are eligible <b>five years after conviction</b>, and other minor felony convictions (including certain drug trafficking, forgery, and credit card fraud) are eligible <b>after 10 years</b>.</li> <li>• Dismissed cases that do not have a disposition <b>after 7 years are eligible for automatic clearing</b>, unless the case has an active warrant or there is documented case activity within the last 12 months.</li> </ul>	<p>crimes and the case is terminated in favor of the accused.</p> <ul style="list-style-type: none"> <li>• An individual was convicted of 1 or more violations relating to the same case; <b>3 years have passed since the date of conviction;</b> and the person has no prior or subsequent convictions.</li> <li>• An individual was convicted of 1 or more misdemeanors, or a combination of 1 or more misdemeanors and 1 or more violations, relating to the same case; <b>5 years have passed since the date of conviction;</b> and the individual has no prior or subsequent convictions.</li> <li>• Felony drug possession convictions are <b>eligible five years after conviction</b>, and other minor felony convictions (including certain drug trafficking, forgery, and credit card fraud) are eligible <b>after 10 years</b>.</li> <li>• Dismissed cases that do not have a disposition <b>after 7 years</b>, unless the case has an active warrant or there is documented case activity within the last 12 months.</li> </ul> <p>Discretionary <b>expungement</b> by petition:</p> <ul style="list-style-type: none"> <li>• A single non-violent felony after a <b>seven-year waiting period</b>, with no prior or subsequent convictions.</li> <li>• One or more misdemeanors relating to the same case (not under the mandatory umbrella) – less serious misdemeanors <b>after three years</b> and more serious misdemeanors <b>after seven years</b> (e.g. domestic violence),</li> </ul>		<p>Criminal records in the custody of the State Bureau of Identification may be destroyed 10 years after the person identified is known or reasonably believed to be dead, or once that person reaches age 80 or reaches age 75 with no criminal activity listed on the person’s record in the past 40 years, whichever shall first occur. <a href="#">Del. Code Ann. tit. 11, §8506(c)</a></p>	<p>charged with, or convicted of an offense for which records have been <b>expunged</b>.</p> <ul style="list-style-type: none"> <li>• All criminal records related to the case must be removed from the court’s files within 60 days of the order and placed in the control of the Supervisor of the State Bureau of Identification “or otherwise segregated and kept in a manner that ensures that they are not open to public inspection or disclosure.”</li> <li>• The Bureau retains control over all <b>expunged</b> records and shall ensure that the records or information contained in the records are not released for any reason.</li> <li>• With the exception of the authorized law enforcement uses, it is unlawful (Class B misdemeanor) for any person having or acquiring access to an <b>expunged</b> court or police record to open or review it or to disclose to another person any information from it without an order from the court that ordered the record <b>expunged</b>.</li> <li>• State records repositories must respond to non-law enforcement requests for records “that there is no record.”</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
		<p>with no prior or subsequent convictions.</p> <ul style="list-style-type: none"> <li>• Certain less serious misdemeanors in multiple cases after a <b>five-year waiting period</b>, so long as the individual has no other convictions that would not be eligible for <b>expungement</b>.</li> <li>• An individual convicted of a crime, other than those specifically excluded (murder and rape), who is thereafter unconditionally pardoned. <a href="#">Del. Code Ann. Tit. 11, § 4375</a></li> </ul>			
<p><b>Michigan</b> 2020, <a href="#">HB 4980</a>, <a href="#">HB 4981</a>, <a href="#">HB 4983</a>, <a href="#">HB 4984</a> and <a href="#">HB 4985</a>; <a href="#">MCL §780.621 et. seq.</a></p>	<p>Authorizes the automatic set-aside of certain convictions that grants relief without a person having to file a petition for relief.</p> <p>Eligible records include:</p> <ul style="list-style-type: none"> <li>• An unlimited number of minor misdemeanors (punishable by less than 93 days in prison) are <b>set-aside</b> automatically <b>seven years</b> after imposition of sentence.</li> <li>• Up to four more serious misdemeanors are automatically <b>set-aside 7 years</b> after imposition of sentence or release from imprisonment.</li> <li>• Up to two less serious felonies are automatically <b>set-aside 10 years</b> after imposition of sentence or release from imprisonment.</li> <li>• There can be no pending charges in the state database nor any additional convictions occurring in the <b>waiting period</b></li> <li>• Restitution and other court debt need not be paid for a conviction to be <b>set-</b></li> </ul>	<ul style="list-style-type: none"> <li>• An unlimited number of misdemeanors and up to three felonies, provided that no more than two convictions for assaultive crimes may be set aside in a person’s lifetime, and not more than one conviction for the same offense may be set aside if the offense is punishable by more than 10 years in prison.</li> <li>• When counting convictions, crimes in the same 24-hour period arising from the same transaction are counted as a single offense unless they involve violence, guns, or a maximum sentence of 10+ years in prison.</li> <li>• A conviction that has been previously set aside is counted for purposes of determining eligibility for later set-aside, but a conviction that has been the subject of a full and unconditional pardon does not count.</li> </ul> <p><u>Waiting periods:</u></p>	<p>Felonies punishable by life imprisonment; specified sex offenses; serious misdemeanors, “crimes of dishonesty” (such as forgery and counterfeiting); offenses punishable by 10 or more years in prison; and crimes that involve a minor, a vulnerable adult, human trafficking, injury or serious impairment or death and crimes involving driving while impaired.</p>	<p><b>Expungement</b>, also referred to as a <b>set-aside</b>, <u>removes the public record</u> of a criminal conviction so that it does not appear in a background check or criminal record search.</p> <p>When a record is <b>expunged</b> or set aside it no longer becomes accessible to public records so employers and others cannot locate them, however, the records are still accessible in a non-public record which is available to law enforcement agencies.</p>	<ul style="list-style-type: none"> <li>• The department of state police retains a nonpublic record of the order setting aside a conviction, or other notification regarding a conviction that was automatically <b>set aside</b> and of the record of the arrest, fingerprints, conviction, and sentence of the person in the case to which the order or other notification applies</li> <li>• This <b>nonpublic</b> record can be made available only to a court of competent jurisdiction, an agency of the judicial branch of state government, the department of corrections, a law enforcement agency, a prosecuting attorney, the attorney general, or the governor upon request and only for the specific purposes</li> <li>• Some convictions that are <b>set aside</b> may be considered a prior conviction by court, law enforcement agency, prosecuting attorney, or the attorney general, as applicable, for purposes of charging a crime as a second or subsequent offense or for sentencing.</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
	<p><b>aside</b>, but a court may reinstate a conviction if a person “has not made a good-faith effort to pay” restitution.</p> <p>*Note: The automatic <b>set-aside process</b> began in April of 2023.</p>	<ul style="list-style-type: none"> <li>• More than one felony conviction <b>requires 7 years</b>; one felony, or a serious or assaultive misdemeanor <b>requires 5 years</b>; other misdemeanors require <b>3 years</b>.</li> <li>• These waiting periods run from the latest of the following: imposition of sentence, completion of incarceration and completion of supervision.</li> </ul>			
<p><b>Minnesota</b> 2023, <a href="#">SF 2909</a>; <a href="#">Minn. Stat. § 609A.015</a></p>	<p>Authorizes the automatic clearing of non-conviction records, most misdemeanors and many non-violent felonies that are already eligible for petition-based <b>expungement</b>.</p> <p>Records eligible include:</p> <ul style="list-style-type: none"> <li>• Misdemeanors are eligible <b>two-years after sentencing</b>.</li> <li>• Gross misdemeanors are eligible after <b>three years</b> after sentencing.</li> <li>• Eligible felonies are eligible <b>five years after sentencing</b>.</li> <li>• Pardoned convictions are eligible with <b>no waiting period</b>.</li> <li>• Cases of mistaken identity with <b>no waiting period</b>.</li> <li>• Many “nonfelony cannabis offenses” involving the sale or possession of marijuana in the fourth and fifth degree after are eligible after a <b>four-year waiting period</b>.</li> <li>• Drug convictions, as well as felonies reduced to gross misdemeanors, and gross misdemeanors reduced to misdemeanors, are not eligible for automatic <b>expungement</b>. However, <b>expungement</b> by petition remains available in those cases.</li> </ul>	<p>A person petitioning for an <b>expungement</b> must establish that the need to <b>expunge</b> the record outweighs the risk to public safety. <a href="#">Minn. Stat. § 609A.01, et seq.</a></p> <p>Convictions eligible for <b>expungement</b> by petition include:</p> <ul style="list-style-type: none"> <li>• Misdemeanors, gross misdemeanors and most minor non-violent felony convictions <b>after waiting periods ranging from two to five years</b>.</li> <li>• Non-conviction records where all pending actions or proceedings were “resolved in favor of the petitioner.” For dismissed charges and other favorable dispositions there is no <b>waiting period</b>; for diverted cases, there is a <b>one-year waiting period</b> after successful completion of conditions in which there may be no new charges; for cases involving deferred adjudication or deferred sentencing there is a conviction-free <b>waiting period of between two and five years</b> depending on the nature of the charges.</li> <li>• Fifth degree drug crimes were added to those eligible for <b>expungement</b> by</li> </ul>	<p>Felony Assault, Felony DUI, Felony Domestic Assault, Felony Burglary and any crime that requires registration on the state’s sex offender list.</p>	<p><b>Expungement</b> refers to sealing of the criminal record and prohibits the court and state agencies that hold criminal records from disclosing, acknowledging, or opening the criminal record except under court order or as permitted by law. An <b>expunged</b> criminal record will not be accessible to the public.</p> <p><u>Destruction of arrest records:</u> In cases where no charges were filed or all charges were dismissed prior to a determination of probable cause, mandatory destruction of arrest records and certain identifying information by the Minnesota Bureau of Criminal Apprehension (BCA) and other state agencies (police departments, county attorneys) is required. In such cases, no petition is required if the person has not been convicted of any felony or gross misdemeanor, either within or without the state, within the period of ten years immediately preceding the determination of all pending criminal actions or proceedings in favor of the arrested person. <a href="#">Minn. Stat. § 299C.11</a></p>	<ul style="list-style-type: none"> <li>• Law enforcement agencies must maintain the data, but not disclose the records relating to an arrest, indictment or information, trial, verdict, or dismissal and discharge for any case in which <b>expungement</b> relief was granted.</li> <li>• In any subsequent prosecution of a person granted <b>expungement</b> relief, the expunged criminal record may be pleaded and has the same effect as if the relief had not been granted.</li> <li>• <b>Expunged</b> and sealed criminal records can still be accessed by the Court, prosecutors, and law enforcement agencies including police, FBI, immigration, and other agencies in a criminal investigation, prosecution, or for sentencing and probation purposes.</li> <li>• A sealed criminal record can also be accessed by criminal justice agencies and other state agencies for background checks for certain jobs or for certain types of occupational licenses.</li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
		petition, with a <b>waiting period of four years.</b>			
<p><b>New Jersey</b> 2019; <a href="#">P. L. 2019, c. 269</a> as amended by <a href="#">P.L 2021, c. 19</a> and <a href="#">P.L. 2023, c. 260</a></p> <p><a href="#">N.J. Stat. Ann. §§2C:52-1 et. seq.</a></p>	<p>Directs the State to develop and implement a “clean slate” process, by which all convictions (except certain ineligible crimes) will be automatically made inaccessible to the public by <b>expunging</b> criminal records</p> <p>Records eligible include:</p> <ul style="list-style-type: none"> <li>• Convictions of one or more crimes, one or more disorderly persons offenses or petty disorderly persons offenses, or a combination of one or more crimes and offenses upon the expiration of a period of <b>ten years from the date of the person's most recent conviction</b>, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later.</li> <li>• As of July 1, 2021, any prior conviction or adjudication of delinquency solely for one or more crimes or offenses involving the manufacturing, distributing, or dispensing, or possessing or having under control with intent to manufacture, distribute, or dispense, marijuana or hashish in small quantities will by operation of law, be <b>expunged</b> and any remaining sentence, ongoing supervision, or unpaid court-ordered financial will be vacated by operation of law.</li> <li>• Arrest records for a crime, disorderly persons offense, petty disorderly persons offense, or municipal</li> </ul>	<ul style="list-style-type: none"> <li>• Upon the expiration of a <b>period of five years from the most recent conviction</b>, payment of any court-ordered financial assessment, satisfactory completion of probation or parole or release from incarceration, whichever is later, the following convictions may be <b>expunged</b> by petition: <ul style="list-style-type: none"> <li>○ A single “indictable offense” (equivalent to felonies in other jurisdictions).</li> <li>○ Up to four “disorderly persons offenses” (misdemeanors) or “petty disorderly persons” offenses.</li> </ul> </li> <li>• No cap on the number of disorderly/petty disorderly persons offenses that may be <b>expunged</b> if the convictions were entered on the same day or were interdependent or closely related in circumstances and were committed as part of a sequence of events that took place within a comparatively short period of time.</li> <li>• <b>Expungement</b> of disorderly/petty disorderly persons is unavailable if a person has at any time been convicted of an indictable offense or more than four disorderly/petty disorderly persons offenses.</li> <li>• Prior convictions are not a bar to eligibility, although subsequent convictions are a bar.</li> <li>• An e-filing system is available for the filing of petitions for <b>expungement</b>.</li> </ul>	<p>Any criminal homicide (murder), kidnapping and related offenses, sexual offenses, robbery, arson and related offenses, and endangering the welfare of children, convictions for sale and distribution of marijuana or hashish are ineligible for <b>expungement</b>, except in cases involving small amounts of marijuana or hashish, and serious drug offenses.</p>	<p><b>Expungement</b> means the <u>extraction, sealing, and impounding or isolation</u> of all records on file within any court, detention or correctional facility, law enforcement or criminal justice agency concerning a person’s detection, apprehension, arrest, detention, trial or disposition of an offense within the criminal justice system. <a href="#">NJ Stat. Ann. § 2C:52-1</a></p>	<ul style="list-style-type: none"> <li>• Officers, departments and agencies notified of an <b>expungement</b> order are required to reply, when asked about records for the individual, that there is no record information. Persons who reveal <b>expunged</b> offenses are subject to a fine and potentially to six months’ jail.</li> <li>• <b>Expunged</b> records are provided to any judge, county prosecutor, probation department or the Attorney General when same are requested for use in conjunction with a bail hearing or for the preparation of a presentence report or for purpose of sentencing.</li> <li>• <b>Expunged</b> records maybe disclosed to appropriate officials when a defendant in a subsequent criminal case is seeking admission to a diversionary program.</li> <li>• <b>Expungement</b> does not provide relief for a person seeking employment with the judicial branch or with law enforcement or corrections agencies. An applicant must reveal <b>expunged</b> records to those employers.</li> <li>• A person's convictions and other information contained in the person's criminal history record information files is restored if the person is subsequently convicted of a crime, for which the conviction is not subject to <b>expungement</b>.</li> </ul>



## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

State/ Year Enacted	Eligibility for Automatic Record Relief (Clean Slate)	Eligibility for Relief through a Petition Process	Records Excluded	Definitions of Expungement/Sealing	Effect of the Record(s) Clearing
	<p>ordinance offense where proceedings against the person were dismissed, the person was acquitted, or the person was discharged without a conviction or finding of guilt, the Superior Court will at the time of dismissal, acquittal, or discharge order the <b>expungement</b> of all records and information relating to the arrest.</p> <p>*Note: While the petition-based “clean slate” <b>expungement</b> law went into effect in June 2020, there is no deadline for implementation of the automated system authorized by the law, but an e-filing system for <b>expungement</b> petitions has been implemented in the interim. <a href="#">NJ Rev Stat § 2C:52-5.4</a></p>	<p><u>Other eligible convictions:</u></p> <ul style="list-style-type: none"> <li>• A person guilty of violating a municipal ordinance may petition for an <b>expungement after 2 years</b> from the date of the conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later.</li> <li>• Persons convicted of low-level drug offenses at age 21 or younger may petition for <b>expungement one year</b> after the date of conviction, termination of probation or discharge from custody, whichever is later.</li> </ul>			
<p><b>New York</b> 2023, <a href="#">A1029C</a></p>	<p>Authorizes the automatic sealing of most criminal conviction records after a graduated waiting period without further conviction.</p> <p>Records eligible include:</p> <ul style="list-style-type: none"> <li>• For a misdemeanor conviction, <b>at least three years have passed</b> from the defendant's release from incarceration or the imposition of sentence if there was no sentence of incarceration. If the defendant is subsequently convicted of a crime before a prior conviction is sealed, the calculation of time for such prior conviction shall start upon the same date as the time calculation starts for the subsequent criminal conviction.</li> <li>• For a felony conviction, <b>at least eight years have passed</b> from the date the defendant was last released from</li> </ul>	<ul style="list-style-type: none"> <li>• Individuals with up to two convictions, only one of which may be a felony, after a <b>10-year waiting period</b>. <a href="#">N.Y. Crim. Proc. Law §160.59(2)(a)</a></li> <li>• Multiple eligible convictions “committed as part of the same criminal transaction” are considered a single conviction.</li> </ul>	<p>Registrable sex offenses, violent felonies and Class A felonies subject to a life sentence are ineligible.</p>	<p>The sealing of a criminal record hides the record from public access, but the record remains accessible to law enforcement and for other relevant and necessary purposes. <a href="#">N.Y. Crim. Proc. Law §160.57</a></p>	<ul style="list-style-type: none"> <li>• After sealing, records will remain available for a variety of specified purposes, including for determining suitability for “licensing, employment and similar activities where federal or state law requires a criminal background check be performed prior to granting licenses to or employing individuals in certain jobs, such as employment with children, elderly populations, or other vulnerable populations, as well as where federal or state law authorizes a criminal background check to be performed prior to the same type of employment or similar activity.”</li> <li>• A conviction sealed under this law is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a</li> </ul>

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	<p>incarceration for the sentence of the conviction eligible for sealing or from the imposition of sentence if there was no sentence of incarceration. A defendant's detention for an alleged violation of parole or post-release supervision shall not interfere with the time calculation prescribed herein unless and until supervision is revoked resulting in the defendant's reincarceration.</p> <ul style="list-style-type: none"> <li>No new convictions may have been entered during the <b>waiting period</b>; no charges may be pending; and the person may not be under supervision for parole or probation <a href="#">N.Y. Crim. Proc. Law §160.57</a></li> </ul> <p>*Note: The law is effective in November of 2024. The law provides the New York State Office of Court Administration up to three years to implement the processes necessary to identify and seal all eligible records.</p>				<p>penalty or is an element of the offense charged. <a href="#">N.Y. Crim. Proc. Law §160.57</a></p>
<p><b>Oklahoma</b> 2022, <a href="#">HB 3316</a>, enacting <a href="#">22 Okla. Stat. Ann. 18(C)</a></p>	<p>Authorizes automatic <b>expungement</b> for certain records defined as “clean slate eligible”.</p> <p>Eligible records include:</p> <ul style="list-style-type: none"> <li>misdemeanor charges and convictions, cases where all charges were dismissed and a person has no prior felony conviction, acquittals, convictions reversed on appeal, cases involving factual innocence and uncharged arrests.</li> <li>Pardoned adult convictions.</li> <li>Deferred adjudication for individuals with first-time drug offenses allows for automatic <b>expungement</b> upon discharge of the conviction.</li> </ul>	<p>The following convictions are eligible for <b>expungement</b> by petition:</p> <ul style="list-style-type: none"> <li>Up to two nonviolent felony convictions may <b>10 years after completion of the last sentence</b>, if no charges are pending.</li> <li>One nonviolent felony may be <b>expunged after 5 years if no priors</b>.</li> <li>Two felonies <b>after 10 years</b>.</li> <li>Non-violent felonies reclassified as misdemeanors may be <b>expunged after 30 days</b>.</li> <li>Misdemeanors may be <b>expunged after 5 years</b> if no prior felonies and no charges pending, except that the</li> </ul>	<p>Violent felony offenses</p>	<ul style="list-style-type: none"> <li><b>"Expungement"</b> means the sealing of criminal records, as well as any public civil record, involving actions brought by and against the State of Oklahoma arising from the same arrest, transaction or occurrence. A fully sealed <b>expunged</b> record shall not be available to the public or to law enforcement. Such records may be retained in the state criminal history repository but shall only be accessible to designated employees of the Oklahoma State Bureau of Investigation for research and statistical purposes. <a href="#">Okla. Stat. tit. 22 §18</a></li> </ul>	<ul style="list-style-type: none"> <li>Records <b>expunged</b> are sealed to the public but not to law enforcement agencies for law enforcement purposes</li> <li>Records <b>expunged</b> are admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of the records</li> <li>Upon the entry of an order to seal the records, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply,</li> </ul>

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	<p>*Note: The law was effective November 1, 2022, and the <b>expungement</b> of “clean slate eligible” cases will begin three years after that date, in 2025.</p>	<p><b>waiting period</b> is waived if the sentence involves a fine less than \$500 and no (or suspended) prison term, upon satisfaction of fine.</p> <ul style="list-style-type: none"> <li>Pardoned offenses and prostitution convictions of victims of human trafficking may be <b>expunged with no waiting period.</b></li> <li>Deferred adjudication and probation are available for misdemeanors and first-time minor felony offenses, with <b>expungement after a waiting period (5 years for felonies, one year for misdemeanors).</b></li> </ul> <p>In addition, non-conviction records may be <b>expunged</b> in case of acquittal or if no charges are filed; dismissed charges may be <b>expunged</b> only if the person has no felony convictions and the limitations period has passed. <a href="#">22 OK Stat § 18v2</a></p>		<ul style="list-style-type: none"> <li>The records to be “fully sealed” after <b>expungement</b> are acquittals, convictions reversed on appeal, cases involving factual innocence, uncharged arrests and cases where all charges were dismissed and the person has no prior felony conviction.</li> <li>All other <b>expunged</b> records (including those for pardoned offenses) are to be “partially sealed” so that they remain available to law enforcement and may be used in subsequent prosecutions. <a href="#">22 OK Stat §18v2</a></li> </ul> <p>Any record ordered to be sealed under the law, if not unsealed within ten (10) years of the <b>expungement</b> order, may be obliterated or destroyed at the end of the ten-year period. <a href="#">22 OK Stat §19(N)</a></p>	<p>upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person.</p> <ul style="list-style-type: none"> <li>Inspection of sealed records will be permitted by the court only upon petition by the person in interest who is the subject of such records, the Attorney General, the prosecuting attorney, and only to those persons and for such purposes named in such petition.</li> <li>Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records, provide information that has been sealed, including any reference to or information concerning such sealed information and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant’s refusal to disclose arrest and criminal records information that has been sealed.</li> </ul>
<p><b>Pennsylvania</b> 2018, <a href="#">18 Pa. C.S. §9122.2</a>, as amended by <a href="#">Act 36, 2023</a></p>	<p>“Clean slate” sealing is considered an “order for limited access” and is automatically available for:</p> <ul style="list-style-type: none"> <li>A single less serious drug felony <b>after a 10-year conviction-free waiting period</b> and full payment of restitution.</li> <li>2nd and 3rd degree misdemeanors and ungraded offenses after a <b>7-year conviction-free waiting period</b>, with</li> </ul>	<p><u>Sealed records:</u></p> <ul style="list-style-type: none"> <li>1<sup>st</sup> degree misdemeanors carrying a potential penalty of two years or less, and ungraded offenses carrying a penalty of up to five years, are eligible for sealing by petition after a <b>10-year waiting period</b> in which the individual must have been free of</li> </ul>	<ul style="list-style-type: none"> <li>Convictions of 1<sup>st</sup> degree felonies punishable by imprisonment of 20 years.</li> <li>Felonies punishable by seven or more years in prison that involve crimes against the person or against the family, firearms or sexual offenses requiring registration.</li> </ul>	<p>Clean slate sealing is defined as “limited access.” <a href="#">18 Pa. C.S. §9122.2</a></p> <p><b>Expungement</b> is requested through a petition process, not through the automatic “clean slate” process.</p> <p><b>Expunged</b> records are destroyed, except that the prosecuting attorney and the central repository must, and the court</p>	<p>Sealed records:</p> <ul style="list-style-type: none"> <li>Sealed records are not available to public or private employers, or landlords, but remain available to licensing agencies and other state and criminal justice agencies.</li> <li>A record subject to limited access remains part of a person's criminal history record information and maybe</li> </ul>

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	<p>certain disqualifying priors (including any prior felony conviction), and full payment of restitution.</p> <ul style="list-style-type: none"> <li>Any first-degree misdemeanor punishable by imprisonment for no more than two years and full payment of restitution.</li> <li>“Clean slate” sealing is mandated for non-conviction records <b>within 30 days of disposition</b>, with the additional remedy of <b>expungement</b> by petition in cases where no disposition is indicated after 18 months.</li> </ul> <p>*Note: Automatic sealing of eligible records began in December 2023 (for summary offenses, automatic sealing began June 2024)</p>	<p>conviction for an offense carrying a prison term of one year or more.</p> <ul style="list-style-type: none"> <li>All court-ordered financial obligations of the sentence must have been satisfied.</li> </ul> <p><u>Expunged records:</u></p> <ul style="list-style-type: none"> <li>Courts may <b>expunge</b> records of “summary offenses” (minor criminal offenses) if the individual who is the subject of the record petitions the court, and has been free of arrest or prosecution for <b>five years following the conviction for that offense</b>.</li> <li>The court may order that conviction records be <b>expunged</b> where a person has reached age 70 and been arrest-free for 10 years following final release from confinement or supervision, or when the person has been dead for three years.</li> <li><b>Expungement</b> is mandatory in summary convictions for underage drinking if the applicant is over 21 at the time of asking for <b>expungement</b>.</li> <li><b>Expungement</b> is mandatory for pardoned offenses.</li> </ul>	<ul style="list-style-type: none"> <li>Convictions of four or more offenses punishable by imprisonment of two or more years.</li> <li>A conviction that occurs within 15 years of a prior conviction of two or more offenses punishable by more than two years in prison, or a number of specific offenses, including indecent exposure, crime involving weapons or implements for escape, sex with animals or failure to comply with registration requirements.</li> </ul>	<p>may, maintain a list of the names and other criminal history record information of persons whose records are <b>expunged</b> after the individual has successfully completed the conditions of any pretrial or post-trial diversion or probation program</p>	<p>disclosed to a court for any relevant purpose in accordance with law, including sentencing.</p> <ul style="list-style-type: none"> <li>May not be considered a conviction that would prohibit the employment of a person under any law in Pennsylvania or under Federal laws that prohibit employment based on State convictions to the extent permitted by Federal law.</li> </ul> <p>Expunged records:</p> <ul style="list-style-type: none"> <li>Except if requested or required by a criminal justice agency, or if disclosure to noncriminal justice agencies is authorized or required by law, an individual may not be required or requested to disclose information about the individual's criminal history record that has been <b>expunged</b>.</li> <li>Does not apply if Federal law, including rules and regulations promulgated by a self-regulatory organization that has been created under Federal law, requires the consideration of an applicant's criminal history for purposes of employment.</li> <li>The Pennsylvania Commission on Sentencing may maintain a list of the names and other criminal history record information of persons whose records are required by law, court rule or court order to be <b>expunged</b> or subject to limited access under this chapter. The information can be used solely for the purposes of conducting research and collecting and reporting statistical data <a href="#">18 Pa. C.S. §9122.5</a></li> </ul>

## State Adult Criminal Records Relief Laws Provisions for Clean Slate and Petition Based Record Clearing

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<p><b>Utah</b> 2019, <a href="#">HB 431</a>, amended in 2022, <a href="#">S 35</a>; 2024, c. 194</p> <p><a href="#">Utah Code Ann. §77-40a-101 et seq.</a></p>	<p>Authorizes the automatic expungement of certain non-conviction, infraction, and misdemeanor records.</p> <p>Eligible records include:</p> <ul style="list-style-type: none"> <li>• Non-conviction records.</li> <li>• Most class B and class C misdemeanor convictions.</li> <li>• Class A drug possession convictions.</li> </ul> <p>Waiting periods:</p> <ul style="list-style-type: none"> <li>• Conviction records will be automatically <b>expunged</b> after a <b>waiting period of 3-7 years</b>, depending on the severity level of the offense.</li> <li>• A person must be crime-free for <b>five years</b> for a class C misdemeanor, <b>six years</b> for a class B misdemeanor, <b>seven years</b> for drug possession and <b>three years</b> for an infraction or traffic related offense</li> <li>• <b>Waiting periods</b> begin from the date of adjudication</li> <li>• For non-conviction cases adjudicated on or after May 1, 2020, the goal is to <b>expunge</b> a case that resulted in an acquittal on all charges 60 days after the acquittal, and to <b>expunge</b> a case that resulted in a dismissal with prejudice (other than a case dismissed with prejudice as a result of successful completion of a plea in abeyance agreement) 180 days after either the day on which the entire case against the individual is dismissed with prejudice if no appeal was filed, or the date of a final non-appealable order.</li> </ul>	<ul style="list-style-type: none"> <li>• A person convicted of no more than one felony, or up to two Class A misdemeanors (in separate criminal episodes), or up to three Class B misdemeanors, or up to four non-felony convictions of any degree, excluding infractions and any traffic offenses, is eligible to apply to the Department of Public Safety for a certificate of eligibility to <b>expunge</b> the record of conviction.</li> <li>• A person convicted of up to two drug felonies and three drug misdemeanors is eligible, each of which is contained in “a separate criminal episode.” If it has been <b>10 years</b> since the petitioner was convicted or released from incarceration, probation or parole, this numerical limit is increased by one.</li> <li>• An eligibility determination includes considering prior <b>expungements</b>, including those from out of state. Infractions, traffic offenses and “minor regulatory offenses” and any local ordinance offenses or Class B or C misdemeanor offenses <i>not</i> contained within the Criminal Code, (with exceptions including drug possession and DUI offenses) do not count against <b>expungement</b> eligibility.</li> <li>• Fines and restitution must be paid before <b>expungement</b> may be ordered.</li> </ul> <p><b>Waiting Periods:</b></p> <ul style="list-style-type: none"> <li>• <b>Seven years</b> in the case of a felony;</li> <li>• <b>Ten years</b> in the case of a misdemeanor DUI offense or felony drug trafficking offense;</li> </ul>	<p>Automatic record clearing:</p> <ul style="list-style-type: none"> <li>• All felonies, all Class A misdemeanor offenses other than drug possession, as well as the following convictions that are also excluded under petition-based expungement:</li> <li>• Certain person on person crimes (due to victim notification requirements.)</li> <li>• Sex offenses requiring registration.</li> <li>• Weapons offenses.</li> <li>• Driving Under the Influence (DUI).</li> <li>• Reckless driving offenses.</li> <li>• Domestic violence cases</li> </ul> <p>Any person that who owes fines, fees or restitution is ineligible for record clearing through both the automatic clearing process, as well as the petition-based clearing process.</p>	<p>“<b>Expunge</b>” means to <u>seal or otherwise restrict access</u> to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest or conviction. <a href="#">Utah Code §77-40a-101</a></p> <p>Exception: Traffic records eligible for clean slate relief are <u>deleted</u> without notice to the court or prosecuting attorney. <a href="#">Utah Code §77-40a-202</a></p>	<ul style="list-style-type: none"> <li>• A prosecuting attorney may not use an <b>expunged</b> record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction,” except with leave of court.</li> <li>• An <b>expunged</b> conviction may not be accessed by the Department of Professional Licensing for licensing purposes.</li> <li>• The Bureau of Criminal Identification must notify all criminal justice agencies of an <b>expunged</b> criminal record so that the criminal justice agencies will also <b>expunge</b> their records of the conviction.</li> <li>• <b>Expungement</b> entitles a person to deny that the arrest or conviction occurred; public employers and licensing boards may not ask about or consider expunged convictions.</li> </ul>

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	<p>*Note: The automated <b>expungement</b> system came online in February 2022. An online portal will be available to individuals to determine their eligibility and as a way to check to ensure that the record has in fact been cleared.</p>	<ul style="list-style-type: none"> <li>• <b>Five years</b> in the case of a Class A misdemeanor, or felony drug possession offense;</li> <li>• <b>Four years</b> in the case of a Class B misdemeanor; or</li> <li>• <b>Three years</b> in the case of any other misdemeanor or infraction.</li> <li>• Non-conviction records are eligible for <b>expungement</b> by petition after <b>30 days</b> if no charges are filed, the charges are dismissed and the limitations period has expired on all charges, or the person is acquitted.</li> </ul>			
<p><b>Virginia</b> 2021, <a href="#">S.B. 1339</a> and <a href="#">H.B. 2113</a>; <a href="#">Va. Code § 19.2-392.1</a>, <a href="#">et. seq.</a>; <a href="#">§19.2-392.5</a> et. seq.</p>	<p>Establishes a system of automatic sealing for misdemeanor non-convictions and specific types of misdemeanor convictions.</p> <p>Eligible records include:</p> <ul style="list-style-type: none"> <li>• Convictions for the following misdemeanors: underage possession of alcohol, petit larceny, concealment, trespass after having been forbidden, instigating others to trespass, trespass on posted property, possession with the intent to distribute marijuana, possession of marijuana, and disorderly conduct.</li> <li>• Misdemeanor non-convictions (excluding traffic infractions) unless the Commonwealth’s attorney objects on one of five specific grounds. There are some exceptions for non-convictions, such as when the charge is dropped as part of a plea agreement. Non-convictions that do not qualify for automatic sealing can still go through the petition-based process.</li> </ul>	<p>Beginning January 1, 2025, provides for the sealing of a broad range of misdemeanor and low-level felony convictions and deferred dismissals through a petition-based court process.</p> <ul style="list-style-type: none"> <li>• Nearly all misdemeanor convictions, except DUI and domestic assault, are eligible if the person was not convicted of a new crime for a <b>seven-year period</b> after conviction or release from incarceration.</li> <li>• Class 5 felonies (1–10 years in prison), Class 6 felonies (1–5 years in prison) and felony larceny convictions (except certain DUI offenses) are eligible for petition-based sealing if the person has not been convicted of any offense for a <b>ten-year period</b> after the conviction or release from incarceration, whichever is later.</li> <li>• There is a lifetime limit of two on the number of sentencing events that an individual can have sealed.</li> <li>• A person must also never have been convicted of an offense that carries a</li> </ul>	<p>Class 1, 2, 3 or 4 felonies, Vehicular Involuntary Manslaughter and Maiming, Watercraft Involuntary Manslaughter and Maiming, Assault &amp; Battery of a Family Member (Domestic Assault) Driving While Intoxicated or Driving Under the Influence.</p>	<p><u>Sealing</u> means to (a) restrict dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge or conviction and (b) to prohibit dissemination of court records related to an arrest, charge or conviction, unless such dissemination is authorized by a court order for one or more required purposes. <a href="#">Va. Code §9.1-101</a></p>	<ul style="list-style-type: none"> <li>• Upon entry of an order for sealing, the person who was arrested, charged, or convicted of the offense that was ordered to be sealed may deny or not disclose to any state or local government agency or to any private employer in the Commonwealth that such an arrest, charge, or conviction occurred.</li> <li>• A person who is the subject of the order of may not deny or fail to disclose information to any employer or prospective employer about an offense that has been ordered to be sealed if: <ul style="list-style-type: none"> <li>• The person is applying for full-time employment or part-time employment with, or to be a volunteer with, the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof;</li> <li>• Virginia law requires the employer to make such an inquiry;</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>To qualify for automatic sealing, <b>seven years must have passed since the conviction or deferred dismissal</b>, the person must not have any new convictions during that time, and on the date of disposition, the person must not have been convicted of another offense that is ineligible for automatic sealing.</li> </ul> <p>*Note: Automatic sealing will begin October 1, 2025. The General Assembly delayed the effective date of the new law to give courts and the Virginia State Police time to upgrade their computer systems.</p>	<p>maximum of life in prison if they want another low-level felony or misdemeanor conviction sealed.</p> <ul style="list-style-type: none"> <li>Marijuana-related misdemeanors not eligible for automatic <b>sealing</b>, as well as many marijuana-related felonies.</li> </ul> <p>A system of court-appointed counsel for individuals who cannot afford an attorney for the petition-based sealing process will be established with a Sealing Fee Fund, which will collect filing fees from individuals who can afford them and use that money to pay court-appointed attorneys.</p>			<ul style="list-style-type: none"> <li>Federal law requires the employer to make such an inquiry. <a href="#">Va. Code §19.2-392.5</a></li> <li>Does not prohibit the disclosure of sealed criminal history record information or any information from such records among law-enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, and impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime. <a href="#">Va. Code §19.2-392.13(I)</a></li> </ul>

**Note:**

- South Dakota has a process for the automatic sealing of certain minor misdemeanors only.
- Eight states (Alaska, Indiana, Kentucky, Maryland, Nebraska, New Hampshire, North Carolina and South Carolina) have a process for the automatic clearing of a range of non-convictions.
- Vermont has authorized automatic relief for non-convictions and certain motor vehicle-related violations.
- Four states (GA, FL, ME, MT) have authorized automatic sealing, expungement, or confidentiality for non-conviction records held by state criminal justice agencies, but not the corresponding court records.

## TESTIMONY OF BRENDAN MCQUADE

Submitted to the

Criminal Records Review Committee

August 13, 2024

Senator Bailey, Speaker Talbot Ross, and members of the Criminal Records Review Committee, thank you for this opportunity to address you today. My name is Brendan McQuade. I am an associate professor and chair of the criminology department at the University of Southern Maine. While I do not speak on behalf of my employer, I am here today as an academic expert who has spent the last twelve years conducting sustained research into how government entities and private organizations administer society and fabricate order through criminalization, surveillance, and policing. With this in mind, I am delighted to have an opportunity to discuss your very important work to gather more information on initiatives to expunge, seal, vacate and otherwise limit public access to criminal records. Today I am going to make two main points to set up my recommendations. First, I am going review of the extent of criminalization in the contemporary United States. Second, I am going to discuss the limitations of criminal records: what kind of people and behaviors do criminal records capture and measure and what do they miss? This background will set up my concluding recommendations to consider clean slate legislation and explore alternative measures of interpersonal and social harms to address the flaws of criminal records.

First, it goes without saying that the United States is the global leader in incarceration, a dubious honor held since before the collapse the Soviet Union and the fall of apartheid in South Africa. The extent of criminalization, however, extends far beyond 1.2 million people currently caged in state a federal prisons and the over half of million incarcerated in county jails on any given day. It extends out to the 3.7 million people on probation and parole, the 12 million more that spend some time in a county jail each year, and nearly 20 million people estimated to have a felony conviction. This criminalized mass of people is nine times larger than the prison population. Two thirds of this group are poor and one third is



black. An even larger group, 100 million, have some kind criminal record, which, as a result of electronic background checks and reporting requirements on applications, leads to systemic discrimination in housing, employment, and education. Altogether, one third of adults in the United States are entangled in criminal legal system in some way.<sup>1</sup> In other words, what we think of as mass incarceration is better understood as mass criminalization: an awesome project of state classification and control that uses the criminal-legal system to manage and administer a social order. We are using the selective application of the criminal legal system—this is what mean by “criminalization”—to manage a series of social problems with punishment: substance use, immigration and labor mobility, unemployment and poverty, homelessness, mental health problems, and, of course, interpersonal violence.

What counts as criminal records, then, are better understood as the documentary record of the bureaucratic operation of social control agencies. This is not a polemic statement. It is a basic recognition of social facts and a foundational truth of criminology. Consider, for example, the difference between police records and a victimization survey. Police records are the crimes *reported to* police. They miss what criminologists call the “dark figure of crime,” the unknown mass of unreported (and undiscovered) crime.<sup>2</sup> To shed light on the dark figure of crime, criminologists conduct victimization studies, where researchers survey a randomized, representative population about their experiences with victimization. Across countries and jurisdictions, victimizations studies consistently show that less than half of all crimes are reported to police. Indeed, the 2022 Maine Crime Victimization Report conducted by the Maine Statistical Analysis Center at USM found that 57% property crime victims reported their loss, 46% of threatening crime victims reported the incident, and only 39% of violent crime victims indicated that

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<sup>1</sup> Emily Buehler and Rich Kluckow, “Correctional Populations in the United States, 2022—Statistical Tables.” US Department of Justice, Bureau of Justice Statistics, May 2024. <https://bjs.ojp.gov/document/cpus22st.pdf>; Leah Wang, “Punishment Beyond Prisons 2023: Incarceration and Supervision by State.” *The Prison Policy Initiative*, May 2023, <https://www.prisonpolicy.org/reports/correctionalcontrol2023.html>; Wendy Sawyer and Peter Wanger, “Mass Incarceration: The Whole Pie, 2024.” *The Prison Policy Initiative*, <https://www.prisonpolicy.org/reports/pie2024.html>; Reuben Jonathan Miller and Forrest Stuart, “Carceral Citizenship: Race, Rights and Responsibility in the Age of Mass Supervision.” *Theoretical Criminology* 21, no. 4 (2017): 534; Devah Pager, “The mark of a criminal record.” *American Journal of Sociology* 108, no. 5 (2003).

<sup>2</sup> Albert Biderman and Albert Reiss, “Exploring the ‘Dark Figure’ of Crime.” *The ANNALS of the American Academy of Political and Social Science* 374, No. 1 (1967).

they reported the incident to law enforcement.<sup>3</sup> Where criminal records are a collection reported crimes, offenses, and offenders, victimization studies are systematic social scientific answer to the question: who has been harmed. What they show is that the most vulnerable social groups—low-income earners, women, people of color, children, youths, and the elderly—are the most victimized.<sup>4</sup> The 2022 Maine Crime Victimization Report, moreover, finds the same basic point: young people, people of color, women, those with lower household incomes, and unpartnered people were more likely to be victimized.<sup>5</sup>

I raise these issues to disabuse us of the seemingly commonsense notion that we need to keep meticulous criminal records to monitor dangerous offenders and protect public safety. In fact, most crime is not reported to police, which means most so-called criminal suspects are unknown to the criminal legal system. In fact, marking offenders with criminal stigma for the rest of their lives actually harms public safety by making it difficult for justice individuals to reintegrate into society. This is the logic of clean slate laws, which are legislative measures designed to help individuals with criminal records by automatically sealing or expunging certain offenses after a specified period, provided they have met specific criteria such as completing probation or avoiding arrest. Currently, 12 states have enacted some form of Clean Slate Law<sup>6</sup>. Michigan’s Clean Slate, for example, expunged the records of over 1 million people in 2023. The law automatically removed records for misdemeanors punishable by less than 93 days in prison after 7 years with no limit on the amount of convictions. For 4 or fewer misdemeanor offenses punishable by more than 93 days, records are expunged after 7 years. The law also allows individuals to petition for expungement for the following crimes: a single DUI five years after the

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<sup>3</sup> Clare Murray, Robyn Dumont, and George Shaler. *Maine Crime Victimization Report: Informing Public Policy for Safer Communities*. Maine Statistical Analysis Center, University of Southern Maine, July 2022, [https://bpb-us-w2.wpmucdn.com/wpsites.maine.edu/dist/2/115/files/2023/01/2022-Maine-Crime-Victimization-Report\\_Final.pdf](https://bpb-us-w2.wpmucdn.com/wpsites.maine.edu/dist/2/115/files/2023/01/2022-Maine-Crime-Victimization-Report_Final.pdf)

<sup>4</sup>Karen Heimer, “Inequalities and Crime,” *Criminology* 57, no 3. (2019).

<sup>5</sup> Clare Murray, Robyn Dumont, and George Shaler. *Maine Crime Victimization Report: Informing Public Policy for Safer Communities*. Maine Statistical Analysis Center, University of Southern Maine, July 2022, [https://bpb-us-w2.wpmucdn.com/wpsites.maine.edu/dist/2/115/files/2023/01/2022-Maine-Crime-Victimization-Report\\_Final.pdf](https://bpb-us-w2.wpmucdn.com/wpsites.maine.edu/dist/2/115/files/2023/01/2022-Maine-Crime-Victimization-Report_Final.pdf)

<sup>6</sup> The 12 states that have passed clean slate laws are California, Colorado, Connecticut, Delaware , Michigan, Minnesota, New Jersey, New York, Pennsylvania, Oklahoma, Utah and Virginia. See the Clean Slate Initiative for more resources: <https://www.cleanslateinitiative.org/states>

completion of sentence, marijuana related convictions that would have been legal under the state's 2018 marijuana laws. A group of serious crime are ineligible for expungement under the Clean Slate Act including: violent crimes, crimes involving minors or vulnerable adults, sext crimes and traffic convictions that resulted in death or injury.<sup>7</sup>

While clean slate laws are relatively new, research studies have already established their positive effects on recidivism, economic outcomes, and social justice. A study published in the *Harvard Law Review* found that expungement improves employment prospects and reduces recidivism.<sup>8</sup> A similar study in the *Journal of Criminal Law and Criminology* found that record clearing increased employment rates and average earnings.<sup>9</sup> A report by the Center for American Progress shows that Clean Slate Laws significantly improve the economic prospects of individuals with criminal records. The report also emphasizes the need for more accessible and widespread expungement processes.<sup>10</sup> Another study in *Punishment & Society*, one of the most esteemed journals in criminology, found that Clean Slate Laws remove stigma of criminal convictions from individuals and facilitate “cognitive transformation and the affirmation of a new identity.” The authors recommending broadening and automating expungement to reintegrate of persons with criminal convictions into the workforce, families, and communities.<sup>11</sup>

The case for Clean Slate Laws is strong. Maine should implement one soon and draw on the lessons learned from earlier adopters. For example, an article in *St John's Law Review* on Pennsylvania's clean slate law, the first of laws of its kind in the United States, found expunging criminal records does eliminate reports of the criminal records in the public record. Here, a Right to be Forgotten law, like those

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<sup>7</sup>Kamau Sandiford and John Cooper, *Clean Slate Year 3: The First Year of Automatic Expungements—Looking Back and Looking Ahead*. Safe and Justice Michigan, April 11, 2024. [https://www.safeandjustmi.org/wp-content/uploads/2024/04/Clean\\_Slate\\_Year\\_3\\_Report.pdf](https://www.safeandjustmi.org/wp-content/uploads/2024/04/Clean_Slate_Year_3_Report.pdf)

<sup>8</sup> J. J. Prescott, and Sonja Starr. Expungement of criminal convictions: An empirical study. *Harvard Law Review*, 133, No (2019);

<sup>9</sup> Jeffrey Selbin, Justin McCrary, and Joshua Epstein, “Unmarked? Criminal Record Clearing and Employment Outcomes.” *Journal of Criminal Law and Criminology* 108, no. 1 (2017).

<sup>10</sup> Rebecca Vallas, Sharon Dietrich and Beth Avery, *A Criminal Record Shouldn't be a Life Sentence to Poverty*. Center for American Progress, 2021, <https://www.americanprogress.org/article/criminal-record-shouldnt-life-sentence-poverty-2/>

<sup>11</sup> Ericka Adams, Elsa Chen, and Rosella Chapman, “Erasing the mark of a criminal past: Ex-offenders expectations and experiences with record clearing,” *Punishment and Society* 19, no 1 (2016).

included in the European Union’s General Data Protection Regulation, is a necessary complement to any clean slate law.<sup>12</sup> The study of Pennsylvania’s law also found that it required individuals to pay court-ordered restitution and other fees to be eligible, which limited the scope and impact of the law. To maximize the positive impacts of Clean Slate Laws expungement should be automatic and at no cost to the individual. Finally, the requirements of Pennsylvania’s law were too narrow: criminal records of only second-degree misdemeanor can be expunged only ten years after the initial sentence. The authors favorably cite Clean Slate Laws in Utah and New Zealand, which expunge a larger list of more serious crimes after five years.<sup>13</sup>

Finally, the state should also explore alternative measures of interpersonal and social harms to more accurately measure behaviors negatively impacting public well-being and craft the appropriate responses to them. As a starting point, legislators and the public should put much more emphasis on victimization surveys than criminal records. A first step should be continued and increased support for regular victimization surveys by the Maine Statistical Analysis Center. The most recent survey was supported by the Office of Child and Family Services at the Department of Health and Human Service, and the Maine Coalition Against Sexual Assault. The state should further support this initiative to allow for a more comprehensive and far-reaching survey. Indeed, victimization surveys have their limits. The National Crime Victimization Survey, the Maine Crime Victimization Report—like national crime data compiled by the FBI—focuses exclusively on conventional property and violent crimes, leaving white collar crimes like wage theft, workplace safety violations, and environmental crimes in an “black box.”<sup>14</sup> These crimes, however, cause greater harms than conventional crimes. Indeed, studies estimate that the full cost of street crime victimization in the United States is \$833.8 billion per year, a massive number

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<sup>12</sup> Alessandro Medneley, “The EU Proposal for a General Data Protection Regulation and the roots of the ‘right to be forgotten,’” *Computer Law & Security Review* 29, no 3 (2013).

<sup>13</sup> Kimberly Cooper, “Can a Person’s ‘Slate’ Ever Really Be ‘Cleaned?’ the Modern-Day Implications of Pennsylvania’s Clean Slate Act.” *St. John’s Law Review* 94, no 2 (2020).

<sup>14</sup> Mary Dodge, “A black box warning: The marginalization of white-collar crime victimization.” *Journal of White Collar and Corporate Crime* 1, no. 1 (2020).

and one that is doubled by the estimated \$1.7 trillion in yearly damages caused by white collar crimes.<sup>15</sup> An expanded victimization survey could attend to white collar crime victimization. Moreover, the state could—and should—make analysis and enforcement of white collar crime a priority. Here, the state should create a special unit in the Attorney General Office to prioritize the enforcement of white collar crimes and issue regular reports on the scope and impact of Maine. If our abiding concern is public well-being, then, we must focus on elite criminality—white collar crimes that involve an the abuse of power and victimize of multiple parties in diffuse and far reaching ways—as much as we focus on conventional property and violent crimes.

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<sup>15</sup> Mark Cohen, “The Costs of White Collar Crime,” in *The Oxford Handbook of White Collar Crime* edited by Shanna Van Slyke, Francis Cullen, and Micheal Benson (New York: Oxford University Press, 2016).



# Permanent Commission RACIAL, INDIGENOUS & TRIBAL POPULATIONS

## The Permanent Commission's Comments For the Criminal Records Review Commission

August 13, 2024

Senator Bailey, Madame Speaker, and Honorable Members of the Criminal Records Review Committee.

My name is Rae Sage, and I am the Policy Coordinator for the Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations. The Permanent Commission is an independent commission whose role is to examine racial disparities across all systems and advise all three branches of Maine state government on ways to improve the status and outcomes of historically disadvantaged racial, Indigenous, and tribal populations in Maine.<sup>1</sup>

The Permanent Commission has been invited to provide comments and suggestions to the Criminal Records Review Commission (CRRC) regarding its work. Due to the scope of the Permanent Commission's work, this is not a topic that the full Commission has considered in detail. That said, we are happy to provide high-level comments that have been reviewed by the members of our Policy Committee.

As a starting point, the Permanent Commission firmly advocates for centering and prioritizing policy solutions that reduce racial disparities and advance racial equity broadly. In the specific context of criminal record review, this means supporting approaches that center the rehabilitation and growth of those who traverses the criminal justice system instead of their persistent punishment. The racial inequities created and maintained through centuries of laws, policies, and practices, have been

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<sup>1</sup> 5 MRSA §25007

upheld and perpetuated intentionally. Dismantling and remediating these historical inequities requires the same amount of sustained intentionality. Prioritizing the path most likely to advance racial equity, even through practical, administrative, or resource barriers- takes motivation and focus on the part of policy makers.

As we know, the systems and structures that define our lives don't work the same for everyone. By acknowledging this, we can avoid exacerbating disparities in the communities we know continue to suffer under the weight of these current systems. Our age, skin color, hometown —these can all determine whether doors of opportunity are open or closed to us.

### **There are significant racial disparities in arrest and conviction rates**

Racial disparities in drug-related arrests in Maine are clear and outpace racial disparities in the enforcement of other types of laws.<sup>2</sup> The data show that Black people use illicit and illegal drugs at a similar rate to white people, but they are three and a half times more likely to be arrested for drug possession charges as white people who use drugs.<sup>3</sup>

Data analyzed by the ACLU (American Civil Liberties Union) shows that in Maine, the racial disparities in marijuana possession arrests were larger in 2018 than in 2010. In 2010, the arrest rate for Black Mainers for marijuana possession was 2.1 times the rate for white Mainers, while in 2018, this disparity grew to Black Mainers being four times more likely to be arrested for marijuana possession.<sup>4</sup>

These disproportionate arrest rates then in turn result in disproportionate conviction rates. Indigenous people in Maine are twice as likely as white people to be charged with drug possession, and three times as likely to be charged with the lowest level of drug possession.<sup>5</sup>

Given the deep roots of our existing legal system in the institutions of slavery<sup>6</sup>, and the history of criminalization of Black and Brown bodies

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<sup>2</sup> Shelor, B. et al. (2019). "Justice Reinvestment in Maine: Second Presentation," Council of State Governments, November 25, 2019. Available at: <https://csgjusticecenter.org/wp-content/uploads/2020/10/JR-in-Maine-second-presentation1.pdf>

<sup>3</sup> Mendoza S. et al. (2019). "Race, Stigma, and Addiction," in *The Stigma of Addiction: An Essential Guide*, Jonathan D. Avery and Joseph J. Avery, eds. at 134, pp. 131-152.

<sup>4</sup> ACLU. (2020). "A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform" Report. Available at: [https://www.aclu.org/wp-content/uploads/publications/marijuanareport\\_03232021.pdf](https://www.aclu.org/wp-content/uploads/publications/marijuanareport_03232021.pdf)

<sup>5</sup> ACLU and MECEP. (2022). "A better path for Maine: The case for Decriminalizing Drugs". Report. Available at: <https://www.aclumaine.org/en/betterpathreport>

<sup>6</sup> Hadden, S. E. (2003). *Slave patrols: Law and violence in Virginia and the Carolinas*. Harvard University Press.

through the Jim Crow<sup>7</sup> and urban reform eras<sup>8, 9</sup> (war on drugs, proactive policing, etc.), it is increasingly clear that remedying injustices in our current criminal justice system requires dedicated systemic change.

## **Collateral consequences contribute to and compound racial disparities in other areas**

The unintentional and unending consequences associated with an open and publicly available criminal record can limit access to housing, employment, education, and credit.

Based on The 2022 Reintegration Report Card offered by the Collateral Consequence Resource Center, Maine ranked 44 out of 50 states in laws restoring rights and opportunities after arrest and conviction. Maine has slipped back 5 places since the 2020 report.<sup>10</sup>

These collateral consequences contribute to and compound disparities that already exist - I will highlight some particularly notable examples.

**Housing disparities:** Today, over 70% of the state's Black residents are renters, compared with 25% of the state's white residents. This makes Maine 48th out of 50 states on the national housing equity index.<sup>11</sup> As these factors compound, we see racial disparities manifest not just in housing, but also in the state's unhoused population. Since 2019, Maine has experienced a significant increase in the number of unhoused people across the state<sup>12</sup>, with roughly 47% coming from Black communities, despite making up only 1.6% of the state's population.<sup>13</sup>

**Wealth and income inequality:** Disparities in years of homeownership, household income, unemployment, opportunities for college education, and pre-existing family wealth all factor into how and where assets accumulate.<sup>14</sup> As of 2020, Black workers in Maine made on average

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<sup>7</sup> Bass, S. (2001). Policing space, policing race: Social control imperatives and police discretionary decisions. *Social justice*, 28 (83).

<sup>8</sup> Provine, D. M. (2011). *Race and inequality in the war on drugs*. *Annual Review of Law and Social Science*, 8.

<sup>9</sup> Fagan, J. (2021). No runs, few hits, and many errors: Street stops, bias, and proactive policing. *UCLA L. Rev.*, 68.

<sup>10</sup> <https://ccresourcecenter.org/wp-content/uploads/2022/03/The-Reintegration-Report-Card.3.2122.pdf>

<sup>11</sup> America's Health Rankings. (2022). Homeownership racial disparity.

[https://www.americashealthrankings.org/explore/measures/homeownership\\_disparity/ME#](https://www.americashealthrankings.org/explore/measures/homeownership_disparity/ME#)

<sup>12</sup> The Maine Point in Time study changed its methodology in 2020 to include individuals living in transitional housing. The statistic offered here represents an approximation of the real increase in homelessness with those data removed from analysis.

<sup>13</sup> MaineHousing. (2023). 2023 Point in time count. <https://rb.gy/x0frf>

<sup>14</sup> Shapiro, T., Meschede, T., & Osoro, S. (2013). *The roots of the widening racial wealth gap: Explaining the Black-white economic divide*. Research and Policy Brief. Institute on Assets and Social Policy, Brandeis University.



\$0.63 for every \$1.00 earned by white workers,<sup>15</sup><sup>16</sup> We see similar disparities at the household level. In 2023, the median household income of white families was over \$70,000 while Black families earned around \$55,000.<sup>17</sup>

These disparities are perhaps most notable, however, in Maine's poverty rates. In 2022, 10.2% of white Mainers lived below the poverty line, but that number increased to 13% for Hispanic Mainers, 17% for Indigenous Mainers, and 29% for Black Mainers that same year.<sup>18</sup>

**Employment:** In Maine, people of color are more likely to hold jobs with poor pay and difficult working conditions, fewer benefits, and unpredictable schedules. Even in good jobs, they are more likely to face discrimination.<sup>19</sup> Persistently high unemployment rates among workers of color provides another dynamic example.<sup>20</sup> While Maine saw its lowest rates of unemployment in over a decade in 2023,<sup>21</sup> Black and Hispanic workers were approximately 1.5 times more likely than white workers to be looking for work.<sup>22</sup> When searching for jobs, workers of color routinely face discrimination, where white job applicants are twice as likely to receive a callback or job offer than Black applicants with equivalent resumes<sup>23</sup> (a finding that remains uniform across occupation, industry, and employer size<sup>24</sup>).

**Healthcare:** Among Mainers with private and employer-sponsored insurance, people of color are more likely to be enrolled in plans that have low up-front costs but provide less coverage and are ultimately more expensive when care is accessed.<sup>25</sup> Among those who are

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<sup>15</sup> US Department of Labor. (2020). *Earnings disparities by race and ethnicity*. <https://www.dol.gov/agencies/ofccp/about/data/earnings/race-and-ethnicity>

<sup>16</sup> US Department of Labor. (2020). *Earnings disparities by sex*. <https://www.dol.gov/agencies/ofccp/about/data/earnings/gender>

<sup>17</sup> U.S. Census Bureau. (2023). *Median Household Income in the past 12 months (in 2022 inflation adjusted dollars)*. American Community Survey, ACS 1-Year Estimates Subject Tables, Table B19013. Retrieved from: <https://data.census.gov/table?q=B19013>

<sup>18</sup> U.S. Census Bureau. (2022). *Poverty Status in the Past 12 Months*. American Community Survey, ACS 1-Year Estimates Subject Tables, Table S1701. Retrieved from: <https://data.census.gov/table/ACSSTIY2021.S1701>

<sup>19</sup> Myall, J., Moretto, M. (2019). *State of working Maine 2019*. Maine Center for Economic Policy. <https://www.mecep.org/maines-economy/state-of-working-maine-2019/>

<sup>20</sup> Bureau of Labor Statistics. (2023). *Labor force characteristics by race and ethnicity, 2021*.

<https://www.bls.gov/opub/reports/race-and-ethnicity/2021/home.htm>. Readers should note that in unemployment statistics, "unemployed" specifically refers to people actively searching for work, as opposed to populations not participating in the labor force (ex. retirees, students, stay-at-home parents, etc.).

<sup>21</sup> Maine Center for Workforce Research and Information. (2023). Labor force statistics by geography. <https://www.maine.gov/labor/cwri/lausl.html>

<sup>22</sup> Moore, K.K., (2024). *The fourth quarter of 2023 saw some group- and state-specific unemployment rates rise slightly as nationwide rates remained low*. Economic Policy Institute. <https://www.epi.org/indicators/state-unemployment-race-ethnicity/>

<sup>23</sup> Pager, D., Western, B., Bonikowski, B. (2009). Discrimination in a low-wage labor market: A field experiment. *American Sociological Review*. 74(5), p. 777-799.

<sup>24</sup> Bertrand, M., Mullainathan, S. (2004). Are Emily and Greg more employable than Lakisha and Jamal? A field experiment on labor market discrimination. *American Economic Review*. 94(4), p. 991-1013.

<sup>25</sup> Furtado, K. (2023). *A Conceptual Map of Structural Racism in Health Care*.

uninsured, Indigenous people are 1.5 times more likely to be uninsured than white Mainers, while the uninsured rate among Black Mainers is nearly twice that of white Mainers.<sup>29</sup>

## **Conclusion**

Decisions made by previous generations impact disparate racial outcomes that we see today. In turn, the decisions made by policy makers today will impact what racial disparities look like in the future. In any given policy decision, we are either choosing to walk towards racial equity and more equitable outcomes, or we are choosing to walk away from equity. There is no neutrality - as we have seen time and time again, so-called “race neutral” decisions are a choice to maintain the racial disparities in the current status quo.

We invite this Committee to choose an intentional focus on racial equity in its final report as a grounding principle for its recommendations. This topic operates as a lever that has the potential to impact systemic racial inequality, by either maintaining current systematic disparities, or by centering and advancing racial equity and moving closer to truly making life in Maine “the way life should be” for everyone, regardless of our race, color, or ethnicity.

# Appendix: Extract from ACLU report “A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform” (2020)



## 2018 SUMMARY

Maine ranks  
**20<sup>th</sup>**  
in the nation for largest racial disparities in arrests for marijuana possession

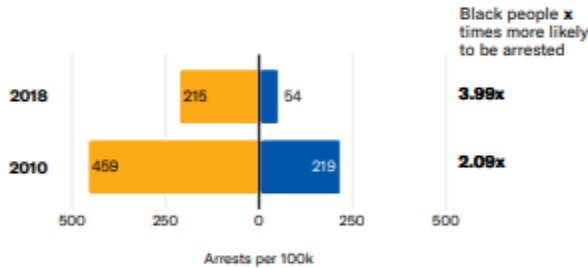
Black people were  
**4x**  
more likely than white people to be arrested for marijuana possession ↑

Arrests for the possession of marijuana made up  
**20%**  
of all drug arrests in the state ↓

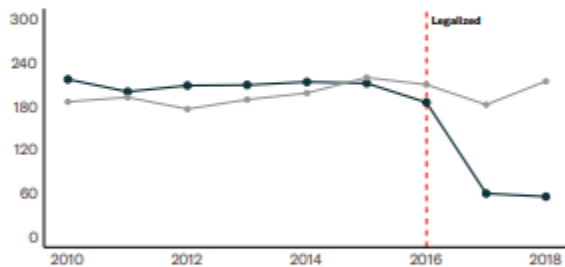
Direction of → indicates increase or decrease since 2010.

## ARRESTS OVER TIME

Rates of **Black arrests** compared to **white arrests** for marijuana possession, per 100k people

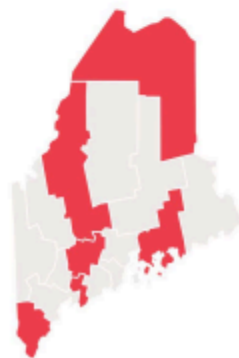


Statewide **marijuana possession** arrest rates compared to all other drug arrest rates, per 100k people



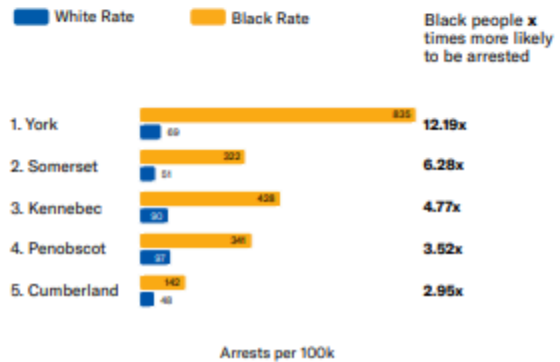
## BY THE COUNTY

All counties with **racial disparities** above the national average (**3.64x**)



### Counties with the largest racial disparities

Counties with a pop. of >30,000, a data coverage of >50% and at least 25 marijuana possession arrests are included.





August 12, 2024

Senator Donna Bailey  
Representative Rachel Talbot Ross  
Criminal Records Review Committee  
c/o Office of Policy and Legal Analysis  
13 State House Station  
Augusta, ME 04333

Dear Senator Bailey, Representative Talbot Ross, and Members of the Committee,

Thank you for this opportunity for Disability Rights Maine (DRM) to provide these comments to the CRRC on its duties and in continuing this important work.

My name is Lauren Wille, and I am the Legal Director of Disability Rights Maine. DRM is Maine's Protection and Advocacy agency for people with disabilities. The work we do is steeped in the notion that disability rights are civil rights. We work on individual cases that involve rights violations of people with disabilities, provide trainings, and advocate for public policy reform. I have been an attorney with DRM for almost eight years. Before that, I practiced indigent criminal defense for six years, including appeals.

The question of public access to criminal records in relation to disability rights is a complex one. This is because individuals with disabilities are disproportionately represented on all sides of the criminal justice system. They face higher rates of being charged and convicted of crimes, and also face higher rates of victimization.

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MAINE'S PROTECTION AND ADVOCACY AGENCY FOR PEOPLE WITH DISABILITIES

40% of people incarcerated in state prisons have a disability, compared with 15% of the general population.<sup>1</sup> People on probation and parole also report higher rates of disability than the general population. It is no surprise that individuals experiencing mental health crises are at higher risk of interacting with law enforcement, and facing criminal charges and convictions. There are many reasons for this, including the lack of community-based services that provide mental health and other support for people with disabilities. Convictions for crimes, even non-violent crimes and misdemeanors, can have serious collateral consequences including access to housing, public benefits, immigration, and employment. A consequence of being overrepresented in the criminal justice system as defendants means increased likelihood of reckoning with these collateral consequences. This is particularly troublesome given that these are also areas in which people with disabilities face discrimination, regardless of criminal history.

On the other side of this coin is the fact that people with disabilities are also far likelier to be the victims of crime. The rate of violent victimization of people with disabilities is almost four times the rate than for individuals without disabilities.<sup>2</sup> The rates are even starker when the crime is one of sexual violence—women with disabilities experience sexual violence at twice the rate of the general population of women, and national studies show that almost 80% of those with disabilities are sexually assaulted on more than one occasion.<sup>3</sup> Crimes against people with disabilities often go unreported due to ableist notions of witness credibility and capacity. In our work, we also see that there is a certain amount of “acceptance” that people with disabilities will be victimized as a normal part of life. This normalization is an unacceptable travesty. For these reasons, it is important to preserve some access to criminal records and hold perpetrators accountable when they are convicted.

Another aspect that this Committee should consider is that service providers for people with disabilities are subject to criminal background checks as part of their employment. This helps prevent individuals with a history of criminal convictions, particularly violent offenses or other offenses against a person, from further victimizing others. Similarly, people seeking to obtain guardianship or

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<sup>1</sup> Bureau of Justice Statistics, *Disabilities Reported by Prisoners*, 2016, <https://bjs.ojp.gov/content/pub/pdf/drpspi16st.pdf> (last accessed August 12, 2024).

<sup>2</sup> Bureau of Justice Statistics, *Crime Against Persons with Disabilities, 2009–2019*, <https://bjs.ojp.gov/library/publications/crime-against-persons-disabilities-2009-2019-statistical-tables> (last accessed August 12, 2024).

<sup>3</sup> Maine Coalition Against Sexual Assault, <https://www.mecasa.org/stats.html> (citing national statistics) (last accessed August 12, 2024).

conservatorship of another person must disclose certain types of convictions, such as a “felony, [a] crime involving dishonesty, neglect, violence or use of physical force, or [a]ny other crime relevant to the functions the individual would assume as guardian or conservator,” nor may they delegate duties to anyone else with those convictions.<sup>4</sup> As this Committee considers whether certain entities should have access to criminal records that are not otherwise publicly available, they should keep this in mind in order to prevent abuse, neglect, and exploitation, including financial exploitation.

We respectfully request that, as this Committee does its work, it strives to strike a balance between ensuring fairness so that certain convictions do not haunt individuals for the rest of their lives, particularly with regard to the collateral consequences for which people with disabilities are already disenfranchised, while seeking to protect and acknowledge the importance of accountability and justice for crimes against disabled individuals.

DRM thanks this Committee for the opportunity to provide these comments, and for its work on these issues. If there are further questions, please do not hesitate to reach out.

Sincerely,

A handwritten signature in blue ink that reads "Lauren Wille". The signature is written in a cursive, flowing style.

Lauren Wille, Esq.  
Legal Director  
Disability Rights Maine

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<sup>4</sup> 18-C M.R.S. § 5-117.



To: Janet Stocco & Sophia Paddon, Criminal Records Review Committee  
From: GLAD Attorneys Mary L. Bonauto, Elizabeth Rodriguez-Ross  
Re: Written Comments of GLBTQ Legal Advocates & Defenders (GLAD) for Aug. 13, 2024, Meeting  
Date: August 12, 2024

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GLAD is a nonprofit legal organization based in Boston with attorneys in Maine, New Hampshire, and Massachusetts that focuses on New England and litigates and engages in public policy nationally. Our mission is to promote justice under law, including by addressing discrimination against LGBTQ+ people based on sexual orientation, gender identity, and HIV status. Attorney Mary Bonauto is a licensed lobbyist in Maine and resident of Portland. Attorney Elizabeth Rodriguez Ross is a GLAD attorney and resident of Massachusetts.

GLAD appreciates the Criminal Records Review Committee for its continued work to address the rapidly developing area of “record relief” and to review other state policies and activities concerning sealing and otherwise limiting public access to criminal records.

We were unable to do as much research as these issues merit, but we can point to a number of useful laws and secondary sources addressing how other states are addressing sealing and other limitations on availability of criminal records, and insights from other jurisdictions in addressing the harms and benefits of making criminal records confidential.

## **I. Sealing Records Reform**

### **A. Maine**

GLAD supports the proposal to make this Committee a permanent one that can build on Maine’s successes to date, including limits on state government asking applicants about criminal history, expanding access to motions for sealing, and automatic sealing for cannabis possession and distribution automatically or by petition, depending on the date of conviction. More specifically, we appreciate –

- The 2019 law prohibiting questions about an individual’s criminal history on applications for State Government employment. Me. Rev. Stat. tit. 5, § 792;1

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<sup>1</sup> Maine Revised Statutes Title 5, §792: Application forms for employment, <https://legislature.maine.gov/statutes/5/title5sec792.html> (last visited Aug 6, 2024).

- The 2021 “Ban-the-Box” law<sup>2</sup> prohibiting public and private employers from requesting criminal history record information from an applicant on the employer’s initial employment application Me. Rev. Stat. tit. 26, §600-A<sup>3</sup>
- The 2024 laws expanding access to a post-judgment motion for sealing criminal history record information beyond those whose crimes were committed as young adults (Laws 2024, ch. 666, codifying LD 2218),<sup>4</sup> and expanding the list of crimes eligible for such a motion, including several crimes about possession and cultivation of cannabis (Laws 2024, codifying LD 2236).<sup>5</sup>

A nationwide report from the Collateral Consequences Resource Center, a nonprofit organization founded in 2014 to provide research, analysis and policy materials and public, legal and judicial engagement on the collateral consequences of arrest or conviction shows that States across the nation are updating and changing their laws governing public access to criminal records.<sup>6</sup>

State legislatures and courts *are* engaging on these issues in expanding options for sealing, expungement and preventing and addressing collateral consequences of “legal restrictions that burden people long after their criminal case is closed.” *Id.*; *id.* at 3-5 (identifying characteristics of a strong policy as one marked by accessibility, efficacy, coordination across jurisdictions, fairness and administrability).

## **B. New England States**

### **1. Connecticut**

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<sup>2</sup> P.L. 2021, ch. 404, An Act Relating to Fair Chance in Employment, <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0845&item=5&snum=130> (last visited Aug 5, 2024).

<sup>3</sup> Maine Revised Statutes Title 26, §600-A: Criminal history record information; employment application, <https://legislature.maine.gov/statutes/26/title26sec600-A.html> (last visited Aug 6, 2024).

<sup>4</sup> P.L. 2024, ch. 666, An Act to Remove the Age-related Statutory Prerequisite for Sealing Criminal History Record Information, <https://legislature.maine.gov/legis/bills/getPDF.asp?paper=HP1423&item=3&snum=131> (last visited Aug 5, 2024).

<sup>5</sup> P.L. 2024, ch. 639, An Act to Expand the List of Crimes Eligible for a Post-judgment Motion to Seal Criminal History Record Information to Include Convictions for Possession and Cultivation of Marijuana, <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1435&item=3&snum=131> (last visited Aug 5, 2024).

<sup>6</sup> Margaret C. Love, “The Many Roads from Reentry to Reintegration: A National Survey of Laws Restoring Rights and Opportunities after Arrest or Conviction,” Collateral Consequences Res. Ctr. (March 2022) at i, [https://ccresourcecenter.org/wp-content/uploads/2022/08/MRFTR\\_8.24.22.pdf](https://ccresourcecenter.org/wp-content/uploads/2022/08/MRFTR_8.24.22.pdf) (hereafter, “CCRC, The Many Roads”).



In 2021, Connecticut adopted a Clean Slate Law to address the real-world effects of legal restrictions on those with criminal records and broad record access and their solutions.<sup>7</sup> The State describes the issues and response as follows:

“Turning your life around after making a mistake isn’t easy. But when you do, it’s only fair to get a second chance. One of the greatest barriers to getting that second chance — to finding a good job, a place to live, and gaining educational and training opportunities — is a criminal conviction on a permanent record. Clean Slate gives relief from these barriers and allows you to move on with your life. Connecticut is building an automated process to erase hundreds of thousands of criminal records.”<sup>8</sup>

To further the objectives of reintegration and the common good, the State asserts:

“These laws are an important step to make sure Connecticut citizens aren’t punished beyond their sentences and can live full, productive lives. The laws will reduce crime by encouraging full reintegration into society. Nearly a third of the population has a criminal record.

Studies show that people with old and minor convictions are unlikely to commit future crimes. Old convictions also unfairly target minority populations. In Connecticut, Black individuals are 9.4 times more likely to be incarcerated, creating economic inequality and a greater social divide.

Clean Slate will boost local economies and create job opportunities for thousands of residents.” *Id at 6.*

- i. Connecticut is one of 12 states with a “Clean Slate Law.”<sup>9</sup> Among other things, Connecticut’s law -
- ii. Establishes a rule and process to automatically erase records of most misdemeanor convictions and certain less serious felony convictions.<sup>10</sup>

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<sup>7</sup> Public Act 21-32, “An Act Concerning the Board of Pardons and Paroles, Erasure of Criminal Records for Certain Misdemeanor and Felony Offenses, Prohibiting Discrimination Based on Erased Criminal History Record Information and Concerning the Recommendations of the Connecticut Sentencing Commission with Respect to Misdemeanor Sentences,” available at: <https://www.cga.ct.gov/2021/ACT/PA/pdf/2021PA-00032-R00SB-01019-PA.pdf>. See Are you eligible? Clean Slate Connecticut, CT.gov, [https://portal.ct.gov/cleanslate/clean-slate-eligibility?language=en\\_US](https://portal.ct.gov/cleanslate/clean-slate-eligibility?language=en_US) (last visited Aug 6, 2024).

<sup>8</sup> Clean Slate Connecticut (2024), [https://portal.ct.gov/cleanslate?language=en\\_US](https://portal.ct.gov/cleanslate?language=en_US) (last visited Aug 12, 2024).

<sup>9</sup> Public Act 21-32, “An Act Concerning the Board of Pardons and Paroles, Erasure of Criminal Records for Certain Misdemeanor and Felony Offenses, Prohibiting Discrimination Based On Erased Criminal History Record Information And Concerning The Recommendations Of The Connecticut Sentencing Commission With Respect To Misdemeanor Sentences”, available at: <https://www.cga.ct.gov/2021/ACT/PA/pdf/2021PA-00032-R00SB-01019-PA.pdf>

<sup>10</sup> Conn. Gen Stat. § 54-142a(e)

Class D and E felonies are covered, as are unclassified felonies with up to 5-year prison terms) entered after January 1, 2000, after a specified period following the person's most recent conviction for any crime (with an exception for certain drug possession crimes). Conn. Gen Stat. § 54-142a(e).

- iii. Automatically erases criminal records 7 years after the date of a conviction for a misdemeanor or **10** years after the date of a conviction for certain class D, class E or unclassified felonies **if they have not been convicted of other crimes.**
- iv. Resets the clock if a person commits another crime, such that the individual must remain conviction-free for seven years (misdemeanor) or 10 years (felony) from that point onward.
- v. Excludes family violence crimes and offenses requiring sex offender registration.
- vi. Erases records when the individual files a prescribed form from the Courts for offenses before January 1, 2000. § 54-142a(e). Offenses committed prior to the person turning 18 are also automatically erased. § 54-142a(f).
- vii. Requires no fee for an erasure petition and partial expungement is available. That is, if the case contained multiple charges and only some are entitled to erasure, electronic records released to the public must be erased to the extent they reference charges entitled to erasure.

## 2. Vermont

Vermont's laws on sealing and expungement are broad. Among the features of its law:

- i. By filing a petition with a Court, all convictions from offenses committed before age 25 can be sealed if certain requirements are met.
- ii. Dismissed charges can be expunged (destroyed) or sealed (set apart with limited, legally designated access).<sup>11</sup> Charges dismissed after a certain date are sealed automatically, whereas sealing of earlier offenses and expungements of dismissals both require a petition.
- iii. A conviction for an offense which is no longer a crime, or for drug possession in an amount which is no longer a crime, can be expunged, on petition of the individual, if certain requirements are met.
- iv. A misdemeanor conviction for marijuana possession will be expunged automatically. 14 felony offenses can be expunged if certain requirements are met.

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<sup>11</sup> Details about sealing and expungement in Vermont can also be found at "Seal or Expunge Your Vermont Criminal Record" at <https://vtlawhelp.org/expungement> (June 26, 2024).

- v. A misdemeanor conviction for marijuana possession will be expunged automatically. You may want to contact the court to confirm the expungement.
- vi. Most misdemeanor offenses can be expunged if certain requirements are met, except:
- vii. Violent or sex offense misdemeanors, misdemeanor violation of a protection order, misdemeanor prostitution, and most misdemeanor driving offenses can't be expunged.
- viii. Requirements vary, but can include: (1) the passage of a certain amount of time; (2) not being charged with certain other offenses; (3) completing all conditions of probation
- ix. paying any public defender fees; (4) paying all restitution, fines, fees, and surcharges
- x. In addition to sealing and expungement, Vermont also has options to prevent collateral consequences. For example, in a criminal proceeding, an agreed-to plea bargain for “deferred adjudication” allows an individual to remain under community supervision without a conviction. Vermont’s ban-the-box law applies to both public and private employers, and employers and licensing agencies may not ask about or consider criminal convictions on an initial employee’s application form. See [https://portal.ct.gov/cleanslate?language=en\\_US](https://portal.ct.gov/cleanslate?language=en_US) (reviewed August 11, 2024).
- xi. Requirements to provide defendants with a notice of their collateral consequences and a notice on the eligibility to seal the criminal record at the time of the filing of their charges, at the time of sentencing, and at the time of release from prison. See Section 8006 of the Uniform Collateral Consequences of Conviction Act.

### 3. New Hampshire

- i. Engages in a process that they refer to as “annulment”, expunging and sealing specific violations and convictions that meet required conditions in the New Hampshire Expungement Statutes<sup>12</sup>
- ii. Most criminal convictions can be expunged except for violent crimes, obstructing justice, and long-term imprisonment, and juvenile records are automatically expunged when the juvenile reaches 21 years of age; all criminal charges that did not lead to a conviction can also be annulled<sup>13</sup>.

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<sup>12</sup> Title LXII Criminal code, Section 651:5 Annulment of Criminal Records., <https://www.gencourt.state.nh.us/rsa/html/LXII/651/651-5.htm> (last visited Aug 12, 2024).

<sup>13</sup> Title XII Criminal code, Section 169-B :35: Delinquent Children., [https://www.gencourt.state.nh.us/rsa/html/XII/169-B/169-B-35.htm#:~:text=\(a\)%20Police%20officers%20and%20prosecutors,the%20purposes%20of%20investigation%20and](https://www.gencourt.state.nh.us/rsa/html/XII/169-B/169-B-35.htm#:~:text=(a)%20Police%20officers%20and%20prosecutors,the%20purposes%20of%20investigation%20and) (last visited Aug 12, 2014).

- iii. For the annulment process, after the waiting period between the sentencing and petitioning to annul elapses, the Court will investigate the petition and produce a decision New Hampshire prohibits the use of records before licensing boards – though that protection does not cover private entities<sup>14</sup>.
- iv. Annulled records remain subject to the New Hampshire Right to Know law, wherein members of the public can request to see annulled criminal records; if the request is denied, the decision can be appealed<sup>15</sup>.

#### 4. Massachusetts

- i. Massachusetts shares many of the same features in its records reform.
- ii. In Massachusetts, conviction records for first-time drug possession convictions may be sealed by a judge or through the administrative processes, though after a longer waiting period.<sup>16</sup>
- iii. Moreover, when records become sealed, they remain available solely to law enforcement officials in the state, also known as “appointing authorities”.<sup>17</sup>
- iv. Relating to employment and current sealing records, employers may not ask about sealed felony convictions in the initial application, instead later in the hiring process.<sup>18</sup>

#### C. Other States

- i. *The Many Roads from Reentry to Reintegration Report* provides a broad overview of the types of sealing laws that other states have implemented.<sup>19</sup>
  - “Looking at general record-clearing relief for convictions, the 50 states, federal system, and District of Columbia can be divided into five categories. The first category includes 14 states with felony and misdemeanor record clearing encompassing a wide range of crimes and eligibility standards. States in the first category include: Arizona, Arkansas, Colorado, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Nevada, New

<sup>14</sup> Title LXII Criminal code, Section 651:5 Annulment of Criminal Records

<sup>15</sup> NH RSA Chapter 91-A, New Hampshire’s Right to Know Law

<sup>16</sup> Title II 276: Section 100A, General Law - Part IV, Title II, Chapter 276, Section 100A, <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleII/Chapter276/Section100A#:~:text=Section%20100A.,the%20commissioner%20seal%20the%20file>. (last visited Aug 12, 2024).

<sup>17</sup> Request to seal your criminal record, Mass.gov, <https://www.mass.gov/how-to/request-to-seal-your-criminal-record#:~:text=To%20seal%20your%20criminal%20record%2C%20you%20should%20file%20a%20petition,Nolle%20Prosequi%20or%20Dismissal%20form>. (last visited Aug 12, 2024).

<sup>18</sup> The process of sealing criminal records in Massachusetts Nate Amendola Defense (2024), <https://www.amendolallc.com/blog/the-process-of-sealing-criminal-records-in-massachusetts/> (last visited Aug 12, 2024).

<sup>19</sup> Restoration of rights & record relief, Collateral Consequences Resource Center, Michigan, <https://ccresourcecenter.org/state-restoration-profiles/michigan-restoration-of-rights-pardon-expungement-sealing> (last visited Aug 6, 2024). Pages 53-57.

Hampshire, New Mexico, North Dakota, and Washington. As acknowledged by your committee<sup>20</sup>, a growing number of states are adopting clean slate laws to automate the **expungement** and sealing of records.

- The second category includes 23 states limiting eligibility, excluding certain offenses, incorporating longer waiting periods. States in this second category include California, Connecticut, Delaware, Idaho, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, West Virginia, and Wyoming. Moreover, Idaho and Nebraska do not seal records.
- The third category includes five states that allow the courts to clear misdemeanors but have limited clearing of felonies to pardoned individuals. These states include Alabama, Georgia, Pennsylvania, South Dakota, and Texas. All four states, excluding South Dakota, allow relief for a more expansive list of misdemeanors. More specifically, after meeting all conditions for sealing, the state of Georgia allows the sealing for a range of non-violent misdemeanor offenses after four conviction-free years, South Dakota seals less severe misdemeanors after five years, and Alabama clears non-violent misdemeanors and violations three years after conviction.
- The fourth category only allows for sealing misdemeanors with limited authority, including the following states: Iowa, Montana, South Carolina, and D.C. Of these states, Iowa has the most restrictive sealing law from 2019, allowing the state to seal a single misdemeanor eight years after completing the sentence, if the person has no other convictions, and if additional requirements are satisfied. Similarly, D.C. excludes many offenses, requires a long waiting period and additional eligibility conditions. South Carolina makes prior conviction or diversion disqualifying. Apart from the rest of the states in this category, Montana allows multiple misdemeanors to be expunged.
- The last, and fifth category does not allow for any conviction relief, albeit the presence of narrow laws targeting minor marijuana convictions in Hawaii and laws for victims of human trafficking, as seen in Hawaii, Florida, and Wisconsin. This category includes the federal system, Alaska, Florida, Hawaii, Maine, Wisconsin, and the federal system.

Nationally, Illinois has the most expansive laws on sealing and expungement (aka “record clearing law”) in the country. It extends eligibility for record sealing to most misdemeanor and felony convictions three years after the termination of the petitioner's last sentence. Illinois also encourages justice-impacted individuals to pursue “a high school diploma, associate’s degree, career certificates, vocational technical certification, or bachelor’s degree, or GED” to **waive** the waiting period (all or part) and hasten reintegration.<sup>21</sup>

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<sup>21</sup> Restoration of rights & record relief, Collateral Consequences Resource Center, <https://ccresourcecenter.org/state-restoration-profiles/illinois-restoration-of-rights-pardon-expungement-sealing/> (last visited Aug 6, 2024). See An Act concerning State government, Public act 0284 100th general assembly, <https://www.ilga.gov/legislation/publicacts/100/100-0284.htm> (last visited Aug 6, 2024).

Illinois' record clearing laws differ from Connecticut and Vermont's laws, including a broader array and scope of eligible offenses and implementing a shorter waiting period after completed sentences, and fees required in the petitioning process. Yet, Illinois' record clearing laws remain comparable to both Connecticut and Vermont, particularly notable with eligibility towards marijuana and drug offenses, Clean Slate laws, as seen in Illinois and Connecticut, expand eligibility for mandatory expungement of adult and juvenile cases and addresses "the second chance gap," the reality that under the petition-based system, only a small fraction of people eligible for expungement ever obtain this important relief.

According to the Clean Slate Initiative, a bi-partisan organization supporting laws that automatically clear eligible records for people who have completed their sentence and remained crime-free, twelve states have passed Clean Slate legislation that meets their minimum criteria. These states include Pennsylvania, Utah, New Jersey, Michigan, Connecticut, Delaware, Virginia, Oklahoma, Colorado, California, Minnesota, and New York.<sup>22</sup>

The criteria are not about particular offenses, but they include misdemeanors and felonies, and the system is automatic (another word) rather than requiring judicial or administrative petitions:

- "Automation of record clearance;
- Automatic clearance upon eligibility of the record (noting that eligibility varies from state to state);
- Inclusion of arrest records;
- Inclusion of misdemeanor records; and,
- A strong recommendation for laws to include eligibility of at least one felony record."<sup>23</sup>

There are also other examples of strong clean slate legislation.

Michigan creates a new process that will automatically seal certain non-violent conviction records if a person has remained conviction-free for a period of time. For Michigan it is seven years for misdemeanors and 10 years for felonies<sup>24</sup>. Michigan' legislation excludes serious misdemeanors, providing a list of ineligible felonies.

Delaware's Clean Slate Law expanded mandatory expungement **five years** after the date of conviction in the case that an individual was convicted of 1 or more misdemeanors, convicted of certain drug possession, or convicted of certain felonies<sup>25</sup>. Under Delaware law, "**non-**

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<sup>22</sup> Clean Slate Initiative Criteria, <https://www.cleanslateinitiative.org/states#criteria>

<sup>23</sup> Clean Slate Initiative Criteria, <https://www.cleanslateinitiative.org/states#criteria>

<sup>24</sup> Restoration of rights & record relief, Collateral Consequences Resource Center, <https://ccresourcecenter.org/state-restoration-profiles/illinois-restoration-of-rights-pardon-expungement-sealing/> (last visited Aug 6, 2024). See Enrolled House Bill No. 4980, Michigan Legislature - Home, <https://www.legislature.mi.gov/documents/2019-2020/publicact/htm/2020-PA-0193.htm> (last visited Aug 6, 2024).

<sup>25</sup> Restoration of rights & record relief, Collateral Consequences Resource Center, <https://ccresourcecenter.org/state-restoration-profiles/illinois-restoration-of-rights-pardon-expungement-sealing/> (last visited Aug 6, 2024).

**conviction records** became effective December 30, 2019, pursuant to SB 37, all records where the ‘case is terminated in favor of the accused’ are eligible for There mandatory expungement upon request. Those cases include acquittals of all charges, a nolle prosequi on all charges, dismissal after probation before judgment, dismissal of all charges, and arrests that are not charged within 1 year of the arrest.”<sup>26</sup> Delaware also has exceptions including, “non-conviction records are **not eligible** for mandatory sealing where a person has **prior or subsequent** convictions that are ineligible for expungement or allowing for the Attorney General or responsible prosecutor to seek expungement at the time of dismissal if they determine that dissemination of the record ‘may cause circumstances which constitute a manifest injustice to the defendant.’ See § 4374(e). Delaware also expanded the dismissals to “Undisposed cases: In 2022, HB 447 expanded the category of dismissed cases eligible for mandatory expungement to include any charge that lacks a disposition after 7 years, unless the case has an active warrant or there is documented case activity within the last 12 months. § 4373(a)(3).”<sup>27</sup>

## II. Collateral Consequences

The American Bar Association defines and discusses collateral consequences in its 2018 Judicial Bench Book addressing the consequences of criminal convictions and providing a national inventory. It states:

“Collateral consequences are legal disabilities imposed by law as a result of a criminal conviction regardless of whether a convicted individual serves any time incarcerated. 1 These consequences create social and economic barriers for individuals reentering into society by denying or restricting benefits otherwise available to all

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<sup>26</sup> Del. Code tit. 11, § 4372(b).6

<sup>27</sup> “Less serious conviction records: Under the 2019 law, records of one or more violations relating to the same case are eligible for mandatory expungement 3 years after the date of conviction even if the person has prior or subsequent convictions; and one or more misdemeanors, or a combination of misdemeanors and violations, relating to the same case, are eligible 5 years after conviction, if the person has no prior or subsequent convictions. § 4373(a). Prior to 2019, the only adult convictions that were eligible for expungement were misdemeanors that had been pardoned.”

“In 2021, SB 112 [Clean Slate] expanded the category of records eligible for mandatory expungement to include a handful of felony convictions, if the person has no prior or subsequent convictions, effective January 1, 2022. Specifically, SB 112 made felony drug possession eligible five years after conviction, and a handful of other minor felony convictions (including certain drug trafficking, forgery, and credit card fraud) eligible after 10 years. See § 4373(a)(2). Senate Bill 112 also allowed for the expungement of convictions or adjudications for underage possession or consumption of alcohol; possession of marijuana; or possession of drug paraphernalia to be always expunged, regardless of a person’s prior criminal history. Most juvenile arrests and adjudications were also made eligible for mandatory expungement after certain timeframes. In general, the juvenile expungement statutes are more expansive than the adult statutes.”

“After August 1, 2024, every record eligible for mandatory expungement is also eligible for Clean Slate. See SB 111, enacting Del. Code tit. 11, § 4373A. This means that following the completion of an individual’s case or sentence Delaware will automatically expunge cases terminated in one’s favor, all violation convictions, certain misdemeanor convictions, and certain felony cases with a single conviction after a set period. Most juvenile arrests and adjudications are also eligible for mandatory expungement after certain timeframes. In general, the juvenile expungement statutes are more expansive than the adult statutes.”

Americans. Collateral consequences are known to adversely affect adoptions, housing, welfare, immigration, employment, professional licensure, property rights, mobility, and other opportunities—the collective effect of which increases recidivism and undermines meaningful reentry of the convicted for a lifetime.<sup>2</sup> Moreover, collateral consequences disproportionately affect minority and economically disadvantaged populations.<sup>3</sup> Despite the sweeping adverse consequences flowing from collateral consequences, defendants are generally not entitled, as a matter of due process, to be warned of these consequences, either before accepting a plea or upon conviction. Although the U.S. Supreme Court has required consideration of certain immigration effects of a criminal conviction, the Court left open what other disenfranchisements might rise to the level requiring constitutional protection.”<sup>28</sup>

### A. Threshold Issues – Public Safety and Recidivism

Criminal history record reforms that aim to recognize people’s accountability for their mistakes and allow them to move forward to build a better life for themselves, their family, and their community also inevitably raise questions about public safety.

One aspect of public safety is recidivism, with the thinking that a past offense means a person will continue to offend. A RAND Corporation report and Maine Department of Corrections reports challenge such assumptions.

For example, the RAND report, *Resetting the Record, Facts on Hiring People with Criminal Histories*, uses data to show that “About 75% of people with a first conviction do not get a second conviction within ten years” and that risk of reoffending declines sharply with age.<sup>29</sup> Moreover, the key factors for predicting risk of re-offense is not about “crime type”, but instead about “a person’s time since last conviction, age, and number of convictions. *Id.* at 3-4.

Several reports from the Maine Department of Corrections (“MDOC”) also cast doubt on any assumptions about previously convicted persons reoffending in the future. The MDOC published in 2023 “The Return to Custody Report One Year Post Release 2021-2022,” and this report showed the lowest one-year return to custody rate for the ten-year period in most areas analyzed. This was true both for the one-year return to custody rate of 6.1% as well as the ten-year rates (6.5% of all males released and 1.7% of all females released).<sup>30</sup> Other MDOC Reports

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<sup>28</sup> American Bar Ass’n, *Collateral Consequences of Criminal Convictions Judicial Bench Book*, The National Inventory of Collateral Consequences of Criminal Convictions, at 4, available at: <https://www.ojp.gov/pdffiles1/nij/grants/251583.pdf> (last reviewed Aug. 12, 2024).

<sup>29</sup> RAND Corp., *Resetting the Record*, supra; J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 *Harvard Law Rev.* 2461 (2020).

<sup>30</sup> Randall Liberty & Anthony Cantillo, *Return to Custody 2012-2021, One-year RCR Report (2023)*, <https://www.maine.gov/corrections/sites/maine.gov/corrections/files/inline-files/Return%20to%20Custody%202012-2021%20One%20Year%20RCR%20Report.pdf> (last visited Aug 6, 2024), at p. 21.



show Maine with a roughly 20% re-offense rate in the three years post-release (2010-2019 data).<sup>31</sup>

Although we have not yet been able to research this area thoroughly, there are articles and research arguing that confidentiality of criminal records lowers the recidivism rate.<sup>32</sup> The authors conclude that re-offense was “strikingly rare” among those whose records were expunged. *Id.* at 2511.<sup>33</sup>

Finally, criminal records are also seen as promoting recidivism by perpetuating “a cycle of poverty, crime, and reliance on government assistance” that is bad for individuals, taxpayers, and the community.<sup>34</sup>

## **B. Collateral Consequences in Employment**

In Maine, some employers may ask about past convictions at some stage of the hiring process, whether at the application stage or an interview. Some sources note that nine out of ten employers and four out of five landlords ask about criminal records, which makes it difficult to obtain jobs, housing or move on even if the record is minor. Roady, *Driving Impact*, at 3. A person without a criminal record is 63% more likely to get a job interview than a person with one, and wages go up 22% in just one year after expungement. *Id.*

At the same time, the RAND Corp. report *Resetting the Record* states that “Misperceptions can keep employers from hiring people who have criminal records” even as people with convictions are a significant part of the pool of those seeking jobs, including 46% of 35-year-old men looking for work in 2018. RAND Corp., *Resetting the Record*, *supra*, at 2. Moreover, more than 25 percent of men in the active workforce in 2018 had at least one prior

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<sup>31</sup> Randall Liberty & Anthony Cantillo, Return to custody report one year post release 2010-2019 (2023), [https://www.maine.gov/future/sites/maine.gov.corrections/files/inline-files/Return to Custody 2010- 2019 One Year RCR Report.pdf](https://www.maine.gov/future/sites/maine.gov.corrections/files/inline-files/Return%20to%20Custody%202010-2019%20One%20Year%20RCR%20Report.pdf) (last visited Aug 6, 2024), at p. 24.

<sup>32</sup> RAND Corp., *Resetting the Record*, *supra*; J.J. Prescott & Sonja B. Starr, Expungement of Criminal Convictions: An Empirical Study, 133 *Harvard Law Rev.* 2461 (2020). Based on de-identified data, the authors conducted “a comprehensive statewide study of expungement recipients and comparable nonrecipients in Michigan. We offer three key sets of empirical findings. First, among those legally eligible for expungement, just 6.5% obtain it within five years of eligibility. Drawing on patterns in our data as well as interviews with expungement lawyers, we point to reasons for this serious “uptake gap.” Second, those who do obtain expungement have extremely low subsequent crime rates, comparing favorably to the general population — a finding that defuses a common public-safety objection to expungement laws. Third, those who obtain expungement experience a sharp upturn in their wage and employment trajectories; on average, within one year, wages go up by over 22% versus the pre-expungement trajectory, an effect mostly driven by unemployed people finding jobs and minimally employed people finding steadier or higher-paying work.” *Id.* at 2461.

<sup>33</sup> Overall, 3.4% were rearrested and 1.8% were reconvicted for crimes within two years. In addition, 7.1% were rearrested and 4.2% were reconvicted within five years. The numbers are even lower when looking to the types of crimes that worry people most. For example, within five years, only 2.6% of expungement recipients were rearrested and 0.6% were reconvicted for violent crimes; 2.7% are rearrested and 1% are reconvicted for felonies. The authors note that the much lower recidivism rates may suggest that expungement recipients pose a lower crime risk than the general population of Michigan as a whole.” *Id.* at 2514-2515.

<sup>34</sup> Elizabeth Roady, *Driving Impact and Equity Through Criminal Record Expungement*, *Forbes Leadership Strategy* (Nov. 29, 2023), available at <https://www.forbes.com/sites/sorensonimpact/2023/11/29/driving-impact-and-equity-through-criminal-record-expungement/> at 4 (last reviewed Aug. 12, 2024) (hereafter, “Roady, *Driving Impact*”).

conviction for a non-traffic offense and were successful employees. *Id.* Also in 2018, between 22 and 52% of White women looking for work had such convictions, as did between 2 to 16% of Black women. *Id.* Maine is also facing a significant worker shortage. Sealing and expunging records can boost the state economy by getting more people with records into the workforce. RAND Corp. posits that rather than a record, it is “job performance, training, and testimonials” that are “good indicators of future behavior.” RAND, *Resetting the Record*, at 5.

Maine’s workforce challenges are well-established. For example, the U.S. Chamber of Commerce report, *Workforce, The States Suffering Most from the Labor Shortage* (July 30, 2024)<sup>35</sup> notes that Maine is in the lowest tier for worker-shortages with only 42 prospective applicants for every 100 open jobs. Likewise, the Maine Center for Economic Policy, *State of Working Maine 2023: Boosting Maine’s Workforce*<sup>36</sup> points to the minimal 6% of workforce increase in the last 20 years, while the Maine Dep’t of Labor predicts vast shrinkage of the labor force going forward.

Occupational Licensing<sup>37</sup> is another driver of both unemployment for people with criminal records and a gap in employees in Maine. Pursuant to Me. Rev. Stat. Ann. tit. 5, § 5301(1), licensing agencies may take into consideration criminal history record information from Maine or elsewhere ‘relating to convictions’ that have not been set aside or pardoned, but ‘the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.’ Healthcare licenses have a 10-year lookback period. *Id.* § 5303(2).

The National Inventory of Collateral Consequences of Conviction from the American Bar Association connects the fact of a criminal record and Maine’s laws and practices to a devastating impact on the economy<sup>38</sup>. The first graph shows the impact of a criminal record with respect to business licensing, occupational licensing and direct employment. The latter specifies the impact on particular fields of work and services.

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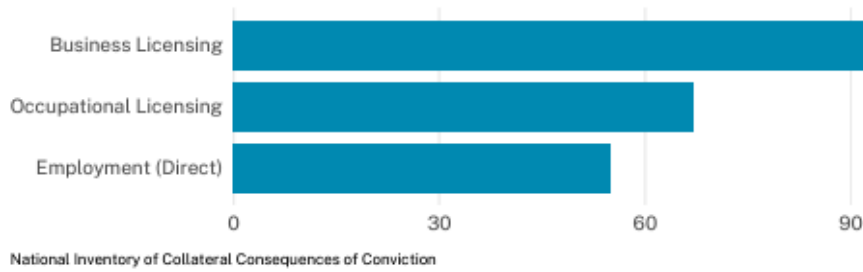
<sup>35</sup> Lindsay Cates & Stephanie Ferguson, Understanding America’s labor shortage: The most impacted states U.S. Chamber of Commerce (2024), <https://www.uschamber.com/workforce/the-states-suffering-most-from-the-labor-shortage?state=me>.

<sup>36</sup> James Myall, *State of Working Maine 2023* (2023), <https://www.mecep.org/wp-content/uploads/2023/11/State-of-Working-Maine-2023-Report.pdf>.

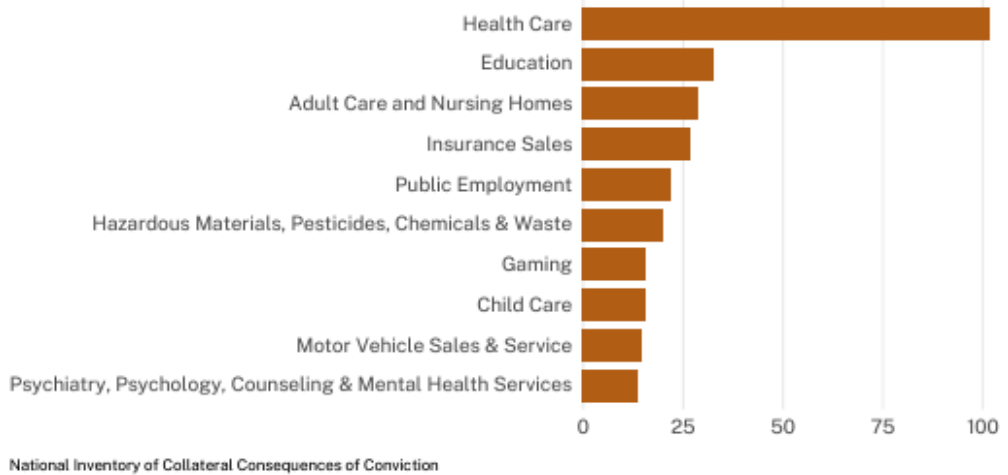
<sup>37</sup> Maine, Collateral Consequences Resource Center, <https://ccresourcecenter.org/state-restoration-profiles/maine-restoration-of-rights-pardon-expungement-sealing/> (last visited Aug 2, 2024).

<sup>38</sup> Maine Criminal Justice Data Snapshot (2023), [https://justicereinvestmentinitiative.org/wp-content/uploads/2024/01/Maine-Criminal-Justice-Data-Snapshot\\_accessible.pdf](https://justicereinvestmentinitiative.org/wp-content/uploads/2024/01/Maine-Criminal-Justice-Data-Snapshot_accessible.pdf) (last visited Aug 6, 2024)

**Figure 50. Number of employment-related collateral consequences by type  
Maine**



**Figure 51. Number of employment-related collateral consequences by field  
Maine**



In short, holding back people with criminal history records who have accounted for their mistakes and are ready for a productive life should also be rethought in relation to our economy and meeting the services and needs of Maine people and communities.

### C. Collateral Consequences in Housing

A criminal record can lead to discrimination in housing. Data show that 79% of people who live with a person with a record have been denied housing at least once because of that record. Rody, *Driving Equity, supra* at 3.

Maine individuals testified to the enormous difficulty in obtaining housing when they have been justice-involved. At a public hearing on LD 1572, An Act to Enact the Maine Fair Chance Housing Act in the 129th Legislature<sup>39</sup>, two witnesses connected the dots.

Ronald D. Springel, MD, Representative of the Maine Association of Recovery Residences (MARR), a Maine non-profit testified:

“Finding affordable, stable and safe housing is challenging enough for a person in early recovery and is too often made much more difficult when prospective landlords eliminate from consideration anyone with a criminal background, no matter how minor or how distant. We at MARR see this all the time.”<sup>40</sup>

Similarly, Peter Lehman, a founding member of the Maine Prisoner Advocacy Coalition and a member of the Steering Committee of the Maine Unitarian Universalist Church’s State Advocacy Network testified:

“Working with many formerly incarcerated citizens during the past 20 years it is clear to me that finding housing is one of the biggest hurdles for ex-offenders...[S]table housing is the foundation of successful reentry from prison. Unfortunately, many formerly incarcerated people struggle to find stable places to live.”<sup>41</sup>

According to the *Maine State Housing Authority Homeless Initiative: Gaps and Needs Analysis*<sup>42</sup>, criminal backgrounds are a barrier to obtaining housing extend due to criminal records. This can also lead to the criminalization of homelessness (including all populations), where individuals are arrested, ticketed, or fined for homeless behaviors (trespassing or sleeping in public places and abandoned buildings). Those people then have arrest records and fines that impede access to employment and housing, and this becomes a cyclical problem.

#### **D. Collateral Consequences on Education**

Although there is much more to say about this topic, several Maine institutions require criminal background checks for students. E.g. Eastern Maine Community College (“All applicants to Medical Assistant Technology, Medical Radiography, Nursing, Plumbing Technology and Surgical Technology who are offered admission will be required to submit to a national criminal background screening process. . . Students whose background check reveals

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<sup>39</sup>129th Maine Legislature, Second special session, LD 1572, HP 1134, Text and Status, 129th Legislature, Second Special Session, [https://legislature.maine.gov/legis/bills/display\\_ps.asp?paper=HP1134&PID=undefined&snum=129&sec3](https://legislature.maine.gov/legis/bills/display_ps.asp?paper=HP1134&PID=undefined&snum=129&sec3) (last visited Aug 7, 2024).

<sup>40</sup> Ronald D Springel, Testimony IN FAVOR OF LD 1572, <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=132727>.

<sup>41</sup> Peter M Lehman, Maine legislature Committee Testimony - Maine Legislature (2021), <https://legislature.maine.gov/bills/testimony.html> (last visited Aug 7, 2024).

<sup>42</sup> Maine State Housing Authority Homeless initiative: Gaps ..., [https://www.mainehousing.org/docs/default-source/policy-research/research-reports/homeless\\_initiatives\\_gaps-and-needs-analysis\\_final.pdf?sfvrsn=cf888d15\\_0](https://www.mainehousing.org/docs/default-source/policy-research/research-reports/homeless_initiatives_gaps-and-needs-analysis_final.pdf?sfvrsn=cf888d15_0) (last visited Aug 2, 2024).

criminal history may be prevented access to the clinical site, and as a result, the student will not have sufficient clinical experience to successfully complete the program”.<sup>43</sup>

Likewise, the University of Maine system requires “Students seeking careers in certain fields, including those that require licensure or certification, may be required to undergo a background check in order: to be licensed, certified or otherwise professionally qualified to enter certain fields of professional activity. . . Background checks may include. . . Review of criminal history, including convictions, deferred adjudications, judgments, and pending criminal charges involving felonies, Class A, Class B, and Class C violations or other criminal history”<sup>44</sup>

Justice involved young people should be able to get the education they need to change their path in life.

### **III. Additional Comments & Remaining Recommendations**

#### **A. State Laws & Practices of Note**

Even the cursory summary provided above suggests that states are innovating ways to minimize or prevent collateral consequences. These include but are not limited to:

- a. Clean slate laws that prohibit various forms of discrimination based on criminal history record information that has been erased, such as in employment, public accommodations, the sale or rental of housing, the granting of credit, and several other areas. In several cases, it classifies discrimination based on these erased records as a “discriminatory practice” under the state human rights laws.”
- b. Vermont’s state ban-the-box law applies to both public and private employers, and employers and licensing agencies may not ask about or consider criminal convictions on an initial employee’s application form.
- c. Eliminating the fees involved with the process to petition for criminal record clearing would eliminate both administrative and financial barriers for individuals.
- d. Incentives such as wage subsidies/insurance can increase employers’ willingness to hire people with criminal records, benefiting society (higher rate of employment, and lower rates of reoffending. *See* RAND Corp., *Resetting the Record*, *supra* at 5

#### **B. Sex Trafficking & Areas Where People are Both Victims and Defendants**

GLAD appreciates mention in the Jan. 2024 Interim Report of this Committee that it is important to consider sex trafficking and the phenomenon of people who are both victims and defendants. To that end, we encourage the Committee to continue its exploration of the

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<sup>43</sup> Criminal Background Check, Eastern Maine Community College, <https://www.emcc.edu/admissions/admissions/prepare/criminal-background-check/> (last visited Aug 7, 2024).

<sup>44</sup> State Authorization and Licensure, University of Maine, <https://www.maine.edu/licensure/> (last visited Aug 7, 2024).

relationship between victimization and commission of crimes. While states generally look to including or excluding particular crimes to address public safety, situations like these suggest that a broader approach, perhaps including judicial discretion, merit exploration. In addition, enacting laws that consider the length of time without any offenses would also help to address concerns of public safety. As in many matters, there are difficult questions of balancing interests as to whether a specific crime should be sealed and the serious collateral consequences for the individual and beyond and GLAD looks forward to deeper engagement on these issues.

### **C. The Concepts Raised in the Bills Before this Committee**

GLAD agrees that people should not have records for things that are no longer crimes, and that they should be removed from all records whether by automatic deletion or, if necessary, a petition to seal. We hope the Committee is considering whether any other crimes fall into the same bucket as cannabis related convictions, that is, they are no longer a crime. We agree that Maine needs sustained efforts from the government, the bar, nonprofits, to notify people about options to seal records and urge the Committee to recommend streamlining those options. We also very much support the Committee's continued existence to engage and build on its expertise in this important work for individuals, families, and our communities.

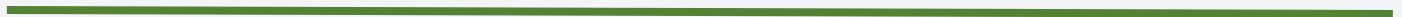
The bottom line is that when states offer these avenues for restoration of rights - people whose records are -sealed or set aside experience improved employment outcomes and low recidivism rates.

We thank the Criminal Records Review Committee members, staff and Chairs for their work on this important Committee.

GLBTQ Legal Advocates & Defenders  
By Attorneys Mary L. Bonauto & Elizabeth Rodriguez-Ross  
August 12, 2024

# The Maine Pardon Project

*A Guide To Applying For A Pardon In Maine*





## Purpose Of This Guide

Welcome to this comprehensive guide designed to help you navigate the complex waters of seeking a pardon in the State of Maine. A pardon is more than just a legal mechanism; it's a fresh start, a lifting of social and legal burdens, and for many, a key to a better life. This guide's main purpose is to make this often-daunting journey more understandable and less intimidating.

- **Disclaimer-** Please note that this guide is for informational purposes only and should not be considered as legal advice. This project is not affiliated with any government body or organization and is a grassroots' initiative. Therefore, it serves as a user-friendly resource to complement the information available on the Maine Pardon Board's official website. For authoritative guidance, please refer directly to the Pardon Board | Department of Corrections on their official website: [Pardon Board | Department of Corrections \(maine.gov\)](#)

## Introduction to Executive Clemency

Executive clemency in Maine can come in two forms: commutations and pardons. This guide will focus on the pardon process, which is a formal act of forgiveness by the Governor for a specific crime.

## The Meaning of a Pardon

A pardon doesn't erase a conviction; it makes it confidential. However, a conditional pardon might still allow some information to be shared. Whether one receives a pardon or conditional pardon, this is at the discretion of the Governor. If the crime occurred when the individual was a juvenile, they may also opt to have the court seal the records. Additionally, in Maine, adults can petition the court to seal certain Class E criminal records as stated in [Maine's Statute Title 15 Sections 2261-2262](#) if all the requirements are met.

- **Expungement-** If you've been granted a full and free pardon for a criminal conviction in Maine, you may apply to expunge the pardoned crime from the Federal Bureau of Investigation's (FBI) identification record. This option becomes available 10 years after completing the sentence and requires that you have no other convictions or pending criminal charges. Please note, by the time you obtain a pardon, you may have reached the 10-year threshold. If this is the case, you may apply for expungement right away. It's important to note that this process only expunges the record from the FBI's files, meaning that the record will essentially be cleared in all states across the U.S. - unless on a rare occasion a Maine background check is requested from another state- but will remain in Maine's state-level records. More information can be found here: [Maine's Statute Title 15 Section 2167](#).





## Why Should I get a Pardon?

Embarking on the journey to receive a pardon can be a transformative step in reclaiming your life. In **15 steps**, outlined in this guide, you can navigate the path towards a governor's pardon. This journey is not just about legal procedures; it's about unlocking a future where **your past doesn't define you.**

While it's crucial to understand that in Maine, according to Title 16, sections 701-710: [Maine's Statute Title 16 Sections 701-710](#), a criminal record isn't entirely erased or expunged by a pardon. However, the power of a pardon lies in its ability to redefine your narrative. A full and free pardon marks your record as 'confidential criminal history record information.' This means that, in most cases, the details of your past convictions become sealed, accessible only under specific, limited conditions.

This “sealing” of your record symbolizes a new beginning. It's a powerful statement that you have been acknowledged, heard, and ultimately forgiven by the highest authority in the state. A pardon does not just alter legal documents; it transforms your social identity, opening doors to opportunities that might have been previously closed due to your criminal record.

So, why should you seek a pardon? Because in **15 steps**, you can not only change your record but also change your life. This guide is more than a procedural manual; it's a roadmap to a new chapter, a testimony to your resilience and transformation, and a beacon of hope for a brighter future.

## Eligibility Criteria

- **Time Frame:** It's recommended a petitioner wait 5 years after completing their sentence before applying for a pardon. In exceptional cases, the Board of Pardons may waive this guideline. This noted, you still can apply for a pardon at any time but will need to explain why it's an exceptional case.
- **Ineligibility Factors:** Some crimes and reasons for seeking a pardon are not eligible, but exceptions might be made in extraordinary cases. This noted, you still can apply for a pardon regardless of your background or reason but will need to explain why it's an exceptional case. Here is a list of the crimes and reasons that are deemed ineligible:
  - Petitioners seeking a pardon for Operating under the Influence of Intoxicating Liquor (OUI) will not be heard.
  - Petitioners seeking a pardon will not be heard if the Petitioner is seeking to rectify alleged errors in the judicial system.
  - Petitioners seeking a pardon for the sole purpose of carrying a firearm to hunt, or otherwise, will not be heard.



- Petitioners seeking a pardon for the sole purpose of having the Petitioner's name removed from the state's Sex Offender Registry will not be heard.
- Petitioners seeking a pardon for one criminal conviction when the Petitioner has one or more additional serious criminal convictions that are not included in the Petitioner's application for a pardon will not be heard.
- Petitioners seeking a pardon for the purpose of entry into Canada will not be heard. However, individuals with criminal convictions who are seeking entrance into Canada should contact the Consulate General of Canada for further information on reinstating this privilege.

### The Process of Seeking a Pardon: 15 steps

- **Prepare the Application:**
  1. **Charging Instrument:** Visit the court clerk's office where you were convicted – here's a database to help locate the clerk's office: [Find a Court by City/Town: State of Maine Judicial Branch](#) - and ask for a certified copy of the charging instrument. This might be called an indictment, information, or complaint.
  2. **Judgment and Commitment Form:** Also, request a certified copy of this form from the same place- court clerk office where you were convicted. It explains the court's final decision and what you must do (like time in a correctional facility or fines).
  3. **Docket Sheet:** This is a document that lists everything that happened in your case. Make sure to ask for a certified copy of this. You'll get it from the same office- court clerk's office where you were convicted.
  4. **Complete the Required Forms:** Fill out the application for executive clemency (this includes a pardon) here: [Pardon application-Supplemental-checklist 0.pdf \(maine.gov\)](#)

***Please Note if you're having difficulties remembering your convictions in Maine or which court you were convicted in Maine you can obtain your criminal record here: [Maine Criminal History Record & Juvenile Crime Information Request](#)***

- **Submission:**
  5. **Put Everything Together:** Make sure you have your completed application, a certified copy of your charging instrument, a certified copy of your judgment and commitment form, and a certified copy of your docket sheet. *It's strongly recommended you make copies of all your documents for personal record.*
  6. **Notarize Your Documents:** Make sure to notarize ALL your documents - completed application, certified copy of your charging instrument, a



certified copy of your judgment and commitment form, and a certified copy of your docket sheet. If your documents aren't notarized, your application will be denied.

- 7. Send It All:** Mail everything to the Maine Department of Corrections to the right address:

Maine Department of Corrections  
Division of Adult Community Corrections State House Station 111  
Augusta, Maine 04333

Call them at (207) 287-3366 if you're unsure about anything.

➤ **Background Investigation:**

- 8. Wait for a Review:** The State Police and Governor's Board will look at your application.
- 9. Answer Any Questions:** They might call you or write to you if they need more information.
- 10. Interview:** The Pardon Board will assign an individual from the division of probation and parole. They will set up a time for an individual interview with you to discuss your pardon application more in depth.

➤ **Hearing Process (if they say yes to your application):**

- 11. Get Ready to Meet the Pardon Board:** This is a group of people who will ask you questions about why you want a pardon. Be honest and make sure to refer back to your application.
- 12. Legal Notice in the Newspaper:** You will have to put a notice in the local newspaper. This tells people that you're asking for a pardon and when the meeting with the Board will be.
- 13. Public Hearing:** Dress nicely and be ready to talk about your case. People from the public might be there too.
- 14. Wait for the Board's Recommendation:** After the public hearing, the Board will tell the Governor what they think.

*\* If you aren't granted a hearing process, it's because your application was denied. This may be very difficult news to hear, however don't be totally discouraged because you can apply again in another year. \**

➤ **The Governor's Decision:**

- 15. Wait for the Letter:** The Governor decides if you get a pardon or not. You'll get a letter in the mail that tells you the decision. If the answer is no, you can't argue with the decision, but you can try again in a year.



## Special Requirements & Financial Considerations

- You will be responsible for paying for all certified copies of the charging instrument, judgment and commitment form, and docket sheet.
- You will be responsible for paying to get all your documents mentioned above along with your executive clemency application notarized.
- You will be responsible for all shipping costs associated with mailing your documents to the Maine Department of Corrections.
- Legal notice will need to be published in a newspaper multiple times if granted a hearing for a pardon. You will be responsible for paying for this.
- You may be required to appear in person or, if you choose, have an attorney represent you during the pardon process. You will be responsible for paying for all travel costs and if you decide to have an attorney represent you, you will be responsible for paying for this representation.

## Key Documents Explained

- **Charging Instrument:** This includes the indictment, information, or complaint. These documents outline the formal charges and can be obtained from the court clerk's office. Remember, you need to request a certified copy of this document.
- **Judgment and Commitment Form:** This is the official record of the verdict and sentence, obtainable from the court clerk's office where you were convicted. Remember, you need to request a certified copy of this document.
- **Docket Sheet:** This chronological summary of the case is also available from the court clerk's office. Remember, you need to request a certified copy of this document.
- **Executive Clemency Application:** This is the formal application you will fill out to seek a pardon from the Governor of Maine. The application includes various sections such as personal information, the conviction (s) you are seeking clemency for, and any exceptional circumstances that you believe would justify your petition. Complete it accurately and honestly, any errors or dishonesty will impact your application's success.

## Conclusion

Taking the step to apply for a pardon in Maine is your constitutional right to seek a second chance. We know the process can be intimidating, but remember, the benefits can be life-changing. A pardon can open doors that seemed forever closed and ease the burden of a criminal record, paving the way for a brighter future for you and your loved ones. It's strongly encouraged that you exercise this right and take advantage of this opportunity for a fresh start.



***\*We strongly encourage individuals and organizations to engage with this guide as an open-source, dynamic resource. Your active participation in using, sharing, and adapting this material within the open-source framework not only enhances its clarity but also amplifies its impact. While we encourage this collective engagement, we also emphasize the importance of diligence and accuracy. It's crucial to undertake thorough legal research and ensure that the information you rely on and disseminate remains faithful to the legal realities of Maine's pardon process. By doing so, you become an integral part of a collaborative effort to demystify the pardon process in Maine. \****



# Pardon Application Checklist

## Prepare the Application

- 1.) Charging Instrument:** Obtain a certified copy from the court clerk's office where you were convicted. *There will be a cost and it varies by court.*
- 2.) Judgment and Commitment Form:** Request a certified copy from the same court clerk's office. *There will be a cost and it varies by court.*
- 3.) Docket Sheet:** Get a certified copy from the court clerk's office where you were convicted. *There will be a cost and it varies by court.*
- 4.) Executive Clemency Form:** Fill out the executive clemency application.

## Submission

- 5.) Compile Documents:** Ensure you have a completed application, certified copies of charging instrument, judgment and commitment form, and docket sheet.
- 6.) Notarize All Documents:** Essential for application approval. *There may be a cost to notarize your documents depending on where you go.*
- 7.) Mail All Documents:** Send to the Maine Department of Corrections, Division of Adult Community Corrections, State House Station 111, Augusta, Maine 04333. *There will be a cost, and this varies by postal service.*



# Pardon Hearing Checklist

## Background Investigation

- 8.) Wait for a Review:** The State Police and Governor's Board will examine your application.
- 9.) Answer Any Questions:** Respond to any inquiries for additional information. The Pardon Board will assign an individual from the division of probation and parole. They will set up a time for an individual interview with you to discuss your pardon application more in depth.
- 10.) Interview:** The Pardon Board will assign an individual from the division of probation and parole. They will set up a time for an individual interview.

## Hearing Process

- 11.) Prepare for the Pardon Board Meeting:** Anticipate questions about why you want a pardon and refer back to your application for consistency.
- 12.) Publish Legal Notice in Newspaper:** This alerts the public about your upcoming hearing. *There will be a cost and it varies by newspaper.*
- 13.) Public Hearing:** Dress appropriately and be prepared to discuss your case. *Travel expenses pending on distance.*
- 14.) Wait for the Board's Recommendation:** The Board will make a recommendation to the Governor.
- 15.) Wait for the Letter:** The Governor will send you a letter indicating their decision.



## Describing “Exceptional Circumstances”

When you're petitioning for executive clemency- a pardon- in Maine, you're asked to describe the "exceptional circumstances" that would justify the Board's consideration of your petition. This section of your application is crucial. To help you navigate it, here are some categories you can focus on along with a “made up example” focusing on John Doe to help provide guidance. Remember, **this isn't an exhaustive list or a strict guideline**, but it's a good starting point.

### **Definitions Of Focus Areas:**

- **Rehabilitation:** This refers to the measures you've taken since your conviction to better yourself and avoid reoffending. It could include participation in educational programs, vocational training, therapy, drug rehabilitation, securing a job, or community service.
- **Stigma Associated with Criminal Record:** This area focuses on the social and psychological effects of having a criminal record, such as facing discrimination in employment, housing, and other aspects of life.
- **Collateral Consequences:** These are the legal and policy-related consequences that come with a criminal record, which can limit your access to employment, housing, educational opportunities, and social benefits.
- **Community and Economic Impact of Receiving a Pardon:** This focuses on how granting you a pardon could benefit your community and the economy, either by enabling you to contribute more meaningfully to society or by helping you gain better employment opportunities.

### **Made Up Example: John Doe's Exceptional Circumstances**

To the honorable pardon board, I want to share my journey with you - a journey of transformation, challenges, and hope. I am John Doe, and this is my story.

#### **My Rehabilitation Journey:**

My path to rehabilitation began in the wake of my conviction. That moment was a crossroads for me, and I chose the road to betterment. I sought out and committed myself to comprehensive drug rehabilitation programs, a decision that marked the beginning of a profound personal transformation. Overcoming addiction was a grueling journey, filled with moments of doubt and struggle, but it was a journey I embarked upon with unwavering determination. Every day of sobriety is a testament to my resolve to live a life that is not only clean but also meaningful and contributive.





My rehabilitation, however, extended beyond overcoming substance use. Recognizing the need to rebuild my life and offer something valuable to society, I immersed myself in vocational training. This was not me merely going through the motions; it was a reinvention of myself. I learned skills in a trade that not only provided me with some income but also with a sense of pride and accomplishment. My work is not just a job; it's a symbol of my reformation and my desire to be a productive member of society.

But my commitment to change didn't end there. I actively sought out opportunities to give back to my community through service. These activities were avenues for me to connect with my community, to make amends, and to contribute in a meaningful way. They allowed me to step outside myself and see the broader impact of my actions, fostering a deeper sense of empathy and responsibility.

### **The Stigma of My Criminal Record:**

The stigma attached to my criminal record has been a persistent shadow, looming over every aspect of my personal and professional life. In the job market, my record often spoke louder than my qualifications or character. Time and again, I was turned away, not for a lack of skill or will, but because of a mistake I deeply regret and have worked hard to rectify.

This stigma permeated my personal life as well. Finding stable housing became a near impossible task. Each rejection was a reminder of my past, a past that I am striving to move beyond. In the community, my criminal history excluded me from participating in normal societal activities, such as volunteering at my child's school events. These experiences were not just personal setbacks; they were also moments that affected my family, creating a ripple effect of exclusion and marginalization.

### **Collateral Consequences of My Felony:**

The collateral consequences of my felony have been far-reaching and multifaceted. My career prospects have been significantly limited, constraining my ability to pursue aspirations that once seemed within reach. This limitation has not only affected my professional trajectory but also the financial wellbeing of my family. We have faced hardships, making do with less, constantly reminded of the long shadow cast by my past.

The barriers extended to areas that many take for granted. Ineligibility for certain governmental assistance programs meant that opportunities for betterment – be it education, housing, or healthcare – were often beyond our grasp. This exclusion from



support systems designed to uplift individuals has been a constant struggle, underscoring the pervasive impact of my criminal record.

### **The Potential Community and Economic Impact of a Pardon:**

Receiving a pardon would be a monumental turning point, not just in my life but also in the lives of those around me. With a clean record, my aspiration to become a peer counselor in substance use programs is not just a dream; it becomes a real possibility. I yearn to use my experiences to help others navigate the treacherous path of addiction and recovery, to be a beacon of hope and a testament to the possibility of redemption.

Economically, a pardon would open new doors for me, allowing me to access better, stable employment opportunities. This would not only enhance my family's financial stability but also allow us to contribute more actively to our local economy. My increased earning potential would enable us to move beyond mere survival, to thrive and give back to the community that has supported me through my journey.

In conclusion, I stand before you, a man transformed by his experiences, seeking a chance to turn a new page. This pardon symbolizes more than just legal forgiveness; it represents a societal acknowledgment of my efforts to rehabilitate, to contribute positively to my community, and to live a life that reflects the true depth of my character. I ask for this opportunity not just for myself, but as a promise to my family, my community, and to all those who believe in second chances. Thank you for considering my petition and for allowing me to share my story.