

# CRIMINAL RECORDS REVIEW COMMITTEE

## Meeting Agenda

Tuesday, September 24, 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. Policies at Maine's Public Colleges & Universities Involving Use of Criminal Records
  - Samantha Warren, Director of Government & Community Relations, University of Maine System
  - Becky Smith, Director of Government & Community Relations, and Sally Meredith, Associate General Counsel, Maine Community College System
3. Access to Driving Records in Maine: Including Pardoned and Sealed Convictions
  - Secretary of State Shenna Bellows
  - Lynne Gardner, Director of Legal Affairs, Bureau of Motor Vehicles
4. Stakeholder Comments and Suggestions Regarding CRRC Duties
  - Rebecca Austin, Chair, Maine Commission on Domestic and Sexual Abuse
  - Foster Bates, President, Maine State Prison Branch of the NAACP
5. Update: Record Clearing Related to Conduct Committed by Victims and Survivors of Sexual Exploitation and Sex Trafficking
  - CRRC Members Andrea Mancuso, Melissa Martin and Michael Kebede
6. Update: Solicitation of Comments from Residents of DOC Facilities & County Jails
  - Sam Praver, Department of Corrections
  - Sheriff Joel Merry, Maine Sheriffs Association
7. Update: Requests for Information from August 13 CRRC Meeting
  - Office of Policy and Legal Analysis, Staff
  - Sam Praver, Department of Corrections
  - Amanda Doherty, Maine Judicial Branch
8. Information about the Uniform Collateral Consequences of Conviction Act (UCCCA)
  - Jane Sternecky, Legislative Counsel, Uniform Law Commission
9. Committee Discussion / Opportunity to Begin Developing Recommendations
10. Planning for Next Meeting

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

### Future Meetings

- 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>



OFFICE OF THE PRESIDENT

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To: The Criminal Records Review Committee  
From: Becky Smith, Director of Government and Community Relations  
(207)629-4015; [Bsmith@MaineCC.edu](mailto:Bsmith@MaineCC.edu)  
Re: Questions posed by CRRC to the Maine Community College System  
Date: September 24, 2024

Speaker Talbot Ross, Senator Bailey and members of The Criminal Records Review Committee, thank you for inviting us to present on the Maine Community College System's policies and procedures as they relate to criminal records.

First, since I primarily speak to legislative committees and I have only met a few of you, I would like to introduce myself and provide a brief snapshot of the Maine Community College System. My name is Becky Smith. For the past 5 ½ years, I have been the director of government and community relations for the Maine Community College System. I am joined here today (via Zoom) by our associate general counsel, Sally Meredith. Sally and I are both honored to represent MCCS today.

Maine's community colleges play a pivotal role in the educational landscape of Maine, providing affordable, accessible, and high-quality education and training, and serving students with a vast array of aspirations at various stages in their career development. Our seven community colleges offer more than 300 degree and certificate options, 200 short-term pre-hire workforce programs, and work with more than 1,300 Maine employers to expand Maine's workforce. We educate approximately 27,400 students every year in our associate degree and one year certificate programs, and over 29,000 in short-term workforce training programs since 2022.

Maine's community colleges offer the lowest tuition and fees in New England. For nearly half of our degree-seeking students, Pell Grants and Maine State Grants cover the full cost of tuition and fees. For many, the grants cover significantly more. In all, 82% of degree-seeking students receive some form of grant aid to help cover the cost of their education. You don't have to be a full-time student to qualify for financial aid. A two-year associate degree for Maine students is \$4,156 a year in tuition and fees.

In our work to provide the widest open door to the neediest students, we work hand-in-hand with the Department of Corrections as well as with a number of Maine employers who have self-identified as "second chance" employers.

After I answer the specific questions you asked, I hope you will indulge me to briefly discuss the amazing programs we are offering in Maine's prisons and reentry programs.

In an email from Ms. Stocco, we were asked two specific questions:

- *Any policies that take into consideration an individual's criminal convictions (including, but not limited to, policies on admissions, employment, and dorm assignments); and*
- *Policies for acceptance of education credits earned by individuals while residents of Maine's correctional facilities.*

Each year, our Deans of Students discuss the inclusion of a criminal record question on our student applications, but MCCS policy is that each college determines whether to include the question. Currently, each of the seven community colleges asks the following question on the college admission application: Have you ever been convicted of a crime or adjudication other than a minor traffic offense? If so, please explain the circumstances of the conviction.

It is important to understand our admissions process which varies greatly from others. Typically, colleges make an offer of admission within 24 hours of receiving an application. When the application with a "yes" notation in the conviction field is received, it is designated for additional internal review. The college will run a State of Maine background check and review the record. The Dean of Students reviews the record and makes a determination based on the level of convicted crime, the type of convicted crime (such as a crime of deception, crime against the body, any involving a child, crimes by taking and crimes against facilities), the frequency of occurrence and the recency of occurrence.

If the Dean of Students concludes the individual poses no significant risk to the college campus and community, they update the application, and the offer of acceptance is made to the individual. This process is usually within the 24-hour period and the individual does not know a review has been conducted.

If the Dean of Students concludes they need additional information, they ask to speak with the applicant about the criminal history. Based on the conversation, the Dean makes one of three decisions: Issue an offer of acceptance; Issue an offer of acceptance for online only; decline to offer acceptance and let the individual know they should reapply at a later date, usually one that allows the individual to establish a record of success.

If the Dean of Students is concerned, they reach out to the MCCS Office of General Counsel for a consult regarding the applicant, the record, and next steps.

One college reported that over the past few years about 3% of their applicants had a criminal record, and all of them were admitted to study at the college.

Anecdotally, the MCCS Office of General Counsel has received four of these calls over the last six summers and fall semesters. Two were admitted to participate in campus learning, one was admitted to participate online, and one was not admitted at that time.

It is important to note that some of our programs require clinical placement in order to meet the requirements of the program and graduate, especially those in healthcare, education and early childhood education (these three program account for more than 20% of our students). The clinical sites make the determination whether a student can be placed. If a student cannot meet the program requirements, i.e. clinical placement, the student will be dismissed. An example would be that someone who is a convicted sex offender cannot be placed in a clinical for our Early Childhood Education program.

As another example, the Southern Maine Community College catalog states:

NOTE: The Maine State Board of Nursing may refuse to grant a license on the basis of the criminal history record information relating to convictions denominated in Title 5, Chapter 341, Section 5301, Subsection 2 of the Maine Revised Statutes Annotated (MRSA).

NOTE: To participate in the Nursing Program, students must register with American Databank/Castlebranch for a criminal background check 2-3 months before the first clinical course. Convictions and pending charges of concern will be reviewed by clinical agencies to determine if students can work at these sites. Students who are not accepted at a clinical agency will not be able to meet program requirements, resulting in dismissal from the Nursing Program.

As the conviction question is prohibited on employment application forms by Maine law, students are asked to consent to a background check as a part of the hiring process. The college uses the same analysis, with different weight given to the types of crimes, history, and recency, when determining whether a student can be employed by a college and if there might be any restrictions on when the student can work.

Maine's community colleges are a little unusual in that we offer housing at six of our seven colleges (and hope to offer housing on all campuses soon). Most community colleges nationwide do not offer housing. Those students who apply for housing undergo a criminal background check. Students are asked to consent to a background check if they have applied to live in student housing; they are not asked if they have been convicted of a crime. The college uses the same analysis, with different weight given to the types of crimes, history, and recency, when determining whether an individual can live in student housing.

The Maine Community College System's colleges would likely accept any educational credits earned by individuals while residents at correctional facilities if they came from an accredited institution of higher education and applied to the student's program of study. We would be agnostic as to where they were as they performed their coursework.

Turning to our employee hiring practices. We do not ask applicants to disclosure whether they have been convicted of a crime. We perform criminal background checks on final candidates who have received a conditional offer of employment.

Sally Meredith is available to answer any questions you may have about our admissions and hiring processes, or, if she is unable to answer a question, we are happy to provide further information to the committee.

If there is time, I would like to highlight a few of our amazing workforce programs that involve Maine's incarcerated citizens.

We are very actively engaged with the Department of Corrections. In fact, we have an employee, Colleen Coffey, who works for both the Maine Community College System and DOC. She and I spoke last week and her dedication to the students she serves is inspirational. Because she is a joint employee, she has access to students that other outside institutions do not. She has office hours in five of the facilities in order to encourage enrollment and persistence. She helps facilitate not only in-facility courses, but also apprenticeships and course work on our campuses for currently incarcerated students. For example: Nine men from Mountain View Correctional Center (MVCF) have begun a culinary bootcamp on the campus of EMCC which will meet over five Saturdays, and two Sundays preparing resumes and sharpening interviewing skills with Colleen. Graduation from the bootcamp will be on October 5th at EMCC. Last fall, nine women from SMWRC completed a culinary bootcamp on the campus of YCCC, which was paired with Release and Career Ready training.

This month, four women from Southern Maine Women's Reentry Center (SMWRC) will be beginning the first cohort of women commercial truck driving licensure (CDL B) in partnership with CMCC. We believe this may be the first program in the country that is focused on women for CDL. Also, last year eight women from SMWRC completed a [welding program at CMCC](#). Trades career workshops have been held at Mountainview Correctional Facility, Bolduc Correctional Facility, Southern Maine Women's Reentry Center, Down East Correctional Facility, Maine Correctional Facility, Long Creek Youth Development Center, and the Women's Center and the list goes on.

I would be remiss if I did not mention that in 2020 Washington County Community College was chosen as a pilot site for [Second Chance Pell](#). This has allowed us to expand our offerings in Maine's correctional facilities.

I recently went to a community college conference in Boston. The president of Bunker Hill Community college stated: "There is not a skills gap; there is a *training* gap." I thought that was a great way to look at the work we do. The people who are currently or formerly incarcerated can be successful if provided the training and education they need to advance and the Maine Community College System is well-positioned to provide that training.

Thank you for your time this morning.

DATE: Sept. 24, 2024  
TO: Criminal Records Review Committee (131st Legislature)  
FROM: Samantha Warren, UMS Director of Government & Community Relations  
samantha.warren@maine.edu / 207-632-0389  
RE: **UMS Criminal History Considerations in Admission and Employment**

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The University of Maine System (UMS) believes in the transformative power of affordable, high-quality public postsecondary education, including for the justice-impacted scholars we serve, and in the dignity of work. Our System's policies and practices related to student admissions and housing, employment, and programming reflect this, as detailed below.

## Student Admission

There are no instances within UMS where a criminal record impacts undergraduate academic program admission. In 2020, all UMS universities (except our law school) removed questions from student admission applications requesting the disclosure of past criminal convictions and past school disciplinary findings.

The University of Maine School of Law does require disclosure of criminal history on its application for student admission. Maine Law's practice is consistent with nearly every other law school in the nation and necessary because law schools must certify the good character and fitness of their graduates who apply for admission to the Bar. Applicants to Maine Law are asked to disclose and detail probation; suspension or termination/expulsion from postsecondary education or employment (not including academic prohibition); arrest, charges, and convictions for crimes and moving traffic violations (not including speeding unless there have been five incidents in the past two years), not including those in juvenile court. Affirmative answers do not automatically preclude admission, rather initiate a thoughtful review by the Admission Committee to determine if the individual has been genuinely rehabilitated before making an admission decision. As Maine Law notes to prospective students on its application, "Because of the high ethical standards governing lawyers, the failure to disclose an act or event is often more significant and leads to more serious consequences than the act or event itself."

Additionally, some UMS degree programs have requirements that may necessitate a student undergoing a criminal history records check (CHRC) to access a non-university setting, typically because it is required by the State. An example of this is that UMS students enrolled in teacher education programs must be fingerprinted and have a CHRC prior to their first field experience in an early childhood center or PK-12 school.

## On-Campus Housing

To inform housing assignments and promote campus safety and student success, the UMS application for housing includes the following questions:

- Have you been convicted of a crime in the past five years?
- Have you been suspended or expelled from a high school in the past five years?

- Have you ever been suspended or expelled from an institution of higher education or residential housing, including housing affiliated with an institution of higher education?
- Are you under any current court order or other provision that requires supervision, restriction or monitoring or where you have agreed to supervision, restriction or monitoring, such as Protection from Abuse, Protection From Harassment, Sex Offender Registry, or any other such order or provision?

In the event that a student answers “yes” to any of these questions, they are afforded the opportunity to provide additional information to assist the university in evaluating how that individual living in a university residence hall could impact the broader campus community.

According to university housing officials, in nearly all cases, the past infractions disclosed are minor and have no impact on housing assignments. In cases where students have a restraining order that involves another student or has certain bail conditions, this disclosure is critical to informing where the student may be assigned to live on campus. In very rare cases where the individual has been convicted of a violent crime or sex offense, their information is thoughtfully considered by a committee of university housing staff and also university colleagues with an understanding of the justice system and best practices for reintegration.

Every effort is made to provide appropriate housing resources to those who apply for them. The university recognizes the importance of housing security and also that in some instances, campus services to support the student’s rehabilitation and well-being may be greater than those available in the community.

## **Fair Chance in University Employment**

UMS is committed to ensuring the safety of all members of the university community and also integrity in its stewardship of public funds and student tuition dollars. Consistent with Maine law, UMS does not ask applicants about their criminal history as part of the initial employment application process. If an individual is recommended for a faculty or staff position, an offer is contingent upon the successful completion of an appropriate background screening, which typically includes state criminal history within the past seven years.

Information about past criminal history obtained by the System through the background screening process, especially that which is consistent with any voluntary disclosure provided by the selected candidate, is not an automatic bar to employment (or transfer, promotion, or reclassification). UMS has detailed procedures to help those involved with the hiring process thoughtfully and on a case-by-case basis consider any criminal history disclosed and/or discovered within the context of the position before an individualized decision about their suitability for public university employment is made. As part of that process, selected applicants are given the opportunity to provide additional information and context, or contest the accuracy of the background screening (through the third-party vendor). In its review of that information, the university considers a number of factors, including (but not limited to) whether there is a pattern of convictions; the relationship between the nature of the offense and the responsibilities of the position the selected candidate is seeking; work record and references after the conviction; and the truthfulness of the selected candidate or employee in disclosing the conviction.

## Prison Education Partnership & Other UMS Resources

Beyond on-campus and online education and employment, UMS directly supports justice-impacted individuals through [the University of Maine at Augusta's \(UMA\) collaboration with the Maine Department of Corrections](#). Through this partnership, UMA has provided postsecondary education within Maine correctional facilities to approximately 800 incarcerated students since 2006, about half of whom have since been released. Credits and credentials earned through UMA courses delivered within Maine's correctional facilities are no different than those earned in a traditional public university setting. To date, UMA has conferred more than 140 degrees through this partnership and many of our graduates have gone on to have meaningful careers and civic lives, with their three-year recidivism rate under 5%.

Other UMS resources that may be a resource to this Committee and justice-impacted individuals and advocates include:

- Maine Law's [Prisoner Assistance Clinic](#), through which student attorneys provide free civil legal aid to inmates at the Maine Correction Center in Windham, and its [Youth Justice Clinic](#), through which student attorneys provide representation for children, youth and emerging adults, and also work to improve practice, policy and process.
- [The University of Southern Maine's Catherine Cutler Institute](#), where justice policy and programming is a signature strength. Key initiatives include [the Place Matters project](#), which supports Maine and its communities in redesigning, implementing, and evaluating community-based solutions that are responsive to local needs and supplement existing assets so that transition-aged young people, children of incarcerated parents, and individuals impacted by the justice system thrive in their communities. In 2017, the Place Matters team released a report entitled "Unsealed Fate: The Unintended Consequences of Inadequate Safeguarding of Juvenile Records in Maine," [an executive summary of which is here](#).

The System appreciates the opportunity to overview how Maine's public universities promote equal opportunity in education and employment and looks forward to reviewing the recommendations of this Committee. Please contact UMS Director of Government Relations Samantha Warren ([samantha.warren@maine.edu](mailto:samantha.warren@maine.edu)) with requests for additional information. Thank you for your ongoing support.



3-2017

## **Unsealed Fate: The Unintended Consequences of Inadequate Safeguarding of Juvenile Records in Maine**

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# Unsealed Fate:

THE UNINTENDED CONSEQUENCES OF INADEQUATE SAFEGUARDING OF JUVENILE RECORDS IN MAINE



Susy Hawes, Erica King, Mara Sanchez and George Shaler  
Muskie School of Public Service  
March 2017

# EXECUTIVE SUMMARY

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## Significance of the Study

Since 1919, when the state’s juvenile delinquency code was enacted, Maine’s justice system has recognized the difference between youth and adults by emphasizing treatment and rehabilitation for young people in the justice system. This approach is supported by a large and growing body of adolescent development and brain science research that finds fundamental, biologically-based differences between youth and adults. If the goal of a separate justice system for youth is to provide the tools and opportunities for young people to change, it is antithetical that the very involvement with the system could create unanticipated, lasting consequences. Unfortunately, studies across the country are finding just that; limited safeguarding of juvenile records stemming from involvement in the juvenile justice system puts individuals at risk of facing collateral consequences, including difficulty obtaining employment and housing or serving in the military. This report explores the extent to which this issue is occurring in Maine by detailing what statutes say, what practices look like and what the implications are for individuals in Maine with a juvenile record. The goal of this report is to provide policy makers, the public and juvenile justice system practitioners with research about what those closest to the system understand about how records are handled and accessed, the impact of juvenile records and what improvements could be made that are consistent with the rehabilitative and public safety goals of the juvenile justice system in Maine.

## Methodology

To determine the extent to which individuals with juvenile records experience collateral consequences, researchers from the University of Southern Maine’s Muskie School of Public Service employed a mixed-methods approach including statute research, practice and policy review and qualitative data collection. Focus groups, interviews and surveys with more than 200 people throughout the State of Maine provided rich, well-grounded and deeply descriptive insights into the juvenile justice system and what is commonly understood about the handling of records related to system involvement. Throughout the report, case studies highlight the stories of young people and adults who have been impacted by their juvenile records.

## Key Findings: Confusion, Inconsistency and Misunderstanding

Results of this research reveal persistent misunderstanding, confusion and inconsistencies surrounding the policies, practices and laws that govern safeguarding and sealing juvenile records. Although Maine’s juvenile code includes a provision for sealing, it is poorly understood and severely underutilized. The notion that records are automatically sealed at age 18 was consistently repeated in interviews across all samples. In fact, juvenile records in Maine are never automatically sealed. Coupled with limited knowledge around the legal options and processes for sealing juvenile records, the persistent myth that records disappear at age 18 makes it less likely that individuals will seek to have their records sealed and increases the likelihood they will face

“We pride ourselves on using precise language in this field, but we use the language around sealing records extremely imprecisely.”

-Juvenile Justice Stakeholder

collateral consequences. Further, there is no system, centralized authority or institutional support for individuals with juvenile records to protect their confidentiality as they attempt to get their lives back on track. Consequently, individuals with juvenile records face significant barriers in application processes, securing employment, enrolling in the military and to a lesser extent, accessing housing and financial supports. In addition, juvenile records put people at greater risk of facing harsher adult sentencing and individuals with records report experiencing marginalization and stigmatization. Specifically, the interviews and research for this report found:

- Widespread lack of understanding of the procedures intended to safeguard juvenile records and the sealing process, including confusion around the meaning of the term “sealed.”
- Inconsistencies around juvenile record creation and sharing.
- A record sealing process that many believe does not sufficiently meet the rehabilitative goals of Maine’s Juvenile Code or reflect research on adolescent development.
- Many young people accept pleas without understanding the implications of having a record and its subsequent consequences.
- The quality of representation contributes to how well records are safeguarded.

### Opportunities for Reform

There was strong support across divergent stakeholder groups for reform of Maine’s Juvenile Code and improvements around how juvenile records are handled, accessed and safeguarded. Many interviewed share the belief that Maine’s Juvenile Code must be revised to support an easier pathway to juvenile record sealing. Many emphasized that the burden to seal records must be removed from the youth. Others stressed the need to train and educate those who work with young people so they are more knowledgeable about the sealing process. There were differences of opinion about length of time before a record should be eligible to seal, types of adjudications that should be considered in sealing and what the sealing process should look like. What was agreed upon is that clearer processes and practices are needed to better safeguard juvenile records and reduce the collateral consequences associated with juvenile justice system-involvement.

“ [The sealing process is] complex and is in serious need of revamping. It’s a challenge navigating all the different statutes that touch upon the confidentiality of juvenile records. ”

-Prosecutor

The following suggestions are those that were most consistently cited throughout the research and are offered to practitioners and policymakers for consideration in efforts to improve and reform systems, procedures and practice around juvenile records:

- Increase stakeholder training and education.
- Revise, or develop, and formalize system and personnel guidance.
- Raise public awareness around juvenile records and collateral consequences.
- Make changes in law and administrative practice.
- Ensure youth and family access to information.

**MYTH:** All juvenile records are automatically sealed at age 18.

**FACT:** No juvenile records are ever automatically sealed.

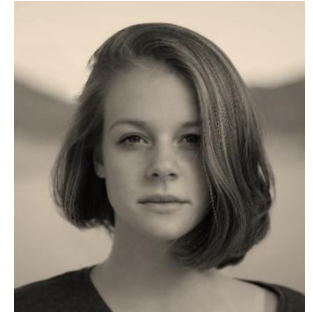
## This is what people think happens to a juvenile record when a young person turns 18:

"My biggest question in court was, 'Will this affect me later in life?' The judge clearly said no. He told me my court case would be closed, it would be a sealed case, sealed document."

- Adult with juvenile record

"Most of the general public understands that records are confidential and that they are not easily disclosed without a court order."

- Defense attorney



"If you don't have an adult record, as soon as you turn 18 it's closed. My lawyer told me that."

- Young person with juvenile record

"A juvenile's record is sealed at a certain age. The charges get dropped. It's automatic."

- Department of Corrections staff

"His record will be treated like any other juvenile record and will be sealed and no one will have access to it."

- Parent of young person with juvenile record

## This is what ACTUALLY happens: Juvenile records are never automatically sealed.

"It's even confusing to me sometimes as to what is public or sealed and what isn't. It's not particularly clearly written. I usually have to go to the statute every time it comes up."

- Prosecutor



"When a kid is taken into custody, the idea that it is generating a record and the long term consequence of that record is not on their mind... I don't think they have any idea of what the consequences are. These are the most vulnerable kids already who are lost, least likely to be able to fend for themselves and most heavily impacted by a juvenile record they believe to be sealed."

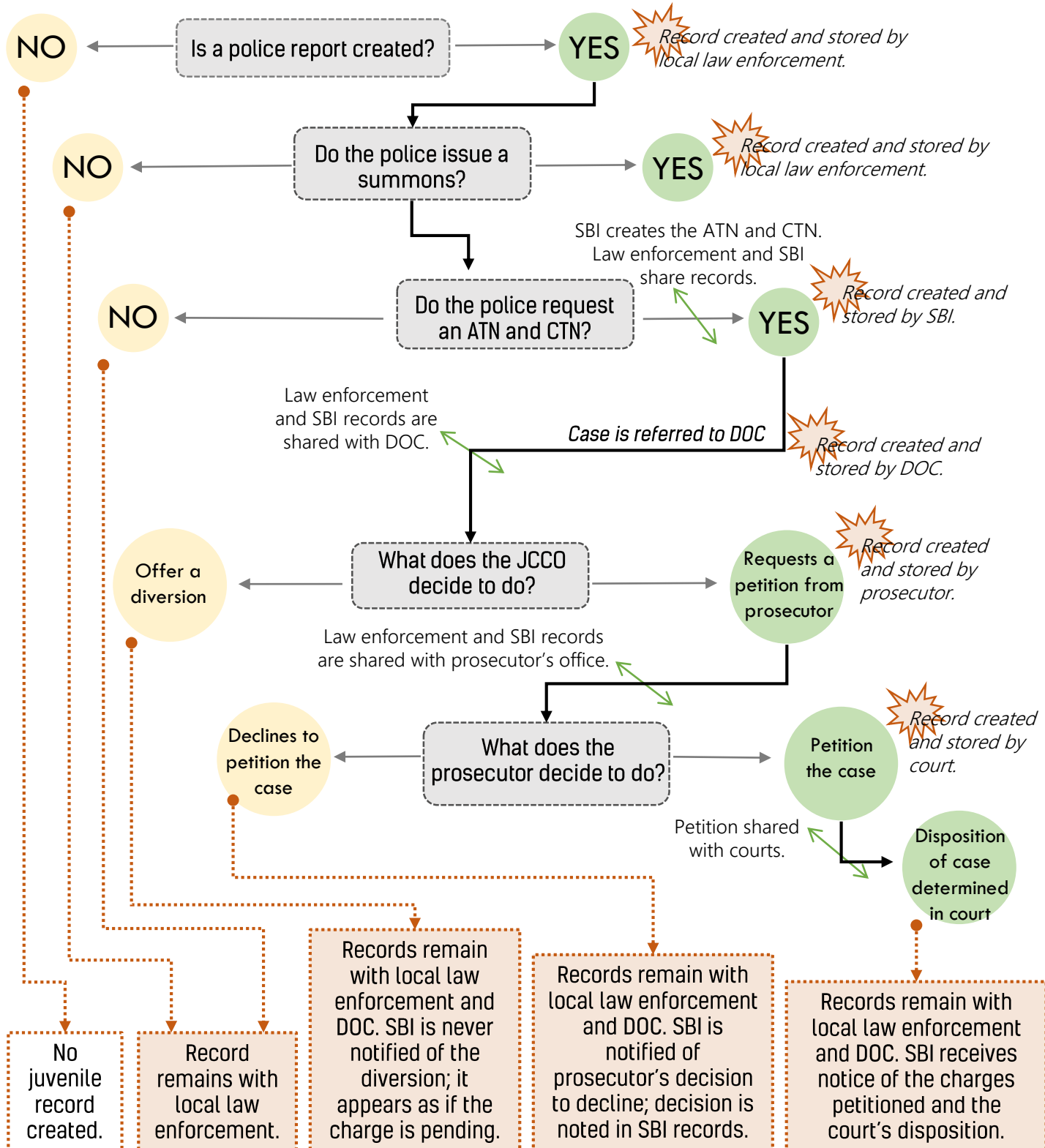
- Defense attorney

"Kids think their record is sealed, but it's not, we can find everything. Even if the lawyer says it got dismissed, there is a record we can find. If you're paying a fine or doing community service, that's the same as pleading guilty. If it's before 18 we can still find it."

- Air Force recruiter

# Anatomy of a Juvenile Record\*

Follow the path to learn what typically happens when a young person has contact with the police and is accused of a juvenile offense.



\* A juvenile record refers to all information that has been generated by criminal justice agencies that may lead to collateral consequences later in life.



# Department of the Secretary of State

## Bureau of Motor Vehicles

Shenna Bellows  
*Secretary of State*

Catherine Curtis  
*Deputy Secretary of State*

### CRIMINAL RECORDS REVIEW COMMITTEE

*Testimony Provided by Shenna Bellows, Secretary of State*

September 24, 2024

Good morning, Senator Bailey, Speaker Talbot Ross and members of the Criminal Records Review Committee, my name is Shenna Bellows, and I am the Secretary of State and chief motor vehicle officer. I am here today to provide information for your consideration about Maine driving records.

#### **Driving Record - Contents**

A Maine driving record is a publicly available record that is a complete summation of the driver history. It includes restrictions like a requirement to wear corrective lenses; the type of license like a Class A or B commercial driver license (CDL); endorsements such as to drive buses or to transport hazardous materials; moving violations; accidents; and driving-related convictions. The driving record of any driver is available online or by contacting the Bureau of Motor Vehicles (BMV). It costs \$7 for a 3-year and \$12 for a ten-year history. The contents of the driving record are governed by federal law under the Driver's Privacy Protection Act (DPPA) and Maine law under Title 29-A. The DPPA protects personal information about the driver including address, license number, photograph, etc. Title 29-A, Section 252 requires that the Secretary of State make the driving record available.

While driving records contain information about driving-related convictions, they are not considered criminal history records under Maine's Criminal History Record Information Act (Title 16 MRS, ch. 7). The federal Driver's Privacy Protection Act (DPPA) specifically exempts "information on vehicular accidents, driving violations, and driver's status" from its definition of protected personal information.

The BMV driving records include brief descriptions of any and all criminal traffic offenses of which the driver was convicted. Driving records also list any driver's license suspensions or revocations arising from such convictions, typically repeating the name of the offense that caused the suspension or revocation. Many of the Class E crimes that might be eligible for sealing carry mandatory license suspensions by the Bureau or the court, while others might contribute to a suspension or revocation based on an accumulation of convictions and/or adjudications.

Federal law prohibits masking of any part of the driving record for commercial drivers:

#### **"Title 49 CFR § 384.226 Prohibition on masking convictions.**

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that would prevent a CLP or CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or

vehicle defect violations) from appearing on the CDLIS driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.”

Pursuant to this and other federal law, any criminal record information including pardons or sealed convictions contained in the driving record are not redacted. In other words, pardons and sealed convictions may be contained in the driving record as a component of the driving history.

### **Access to Driving Records**

Access to driving records is provided in a variety of ways – to the public, law enforcement, the courts, insurance companies, employers and other states.

For purposes of this Committee’s review, we recommend a review of federal law and the Driver License Compact, which mandate information sharing about driving records, including criminal convictions, between states.

Since 1993, Maine has participated in the Driver License Compact incorporated into Maine law per Title 29-A, Subchapter 5, Sections 1451-1475. Under the Driver License Compact, convictions of license-holders from other states for incidents that occur in Maine are reported to those states. When a Maine license holder moves to another state and seeks licensing there, their driving history, including prior convictions, is electronically sent from Maine to their new state of residence. Later this year, Maine will implement state-to-state verification services that will allow for real-time exchange of electronic information between states regarding the driving history to ensure that an unsafe driver cannot remain on the roadways simply by applying for a license in a new jurisdiction. This is a requirement of the Federal REAL ID Act of 2005.

The Federal Motor Carrier Safety Administration enforces information-sharing by states with regards to commercial driving records. Maine participates in the Commercial Driver License Information System (CDLIS), whereby commercial driving record information is shared among states. Additionally, Maine participates in the federal Drug and Alcohol Clearinghouse which exchanges information about drug and alcohol violations by CDL drivers among states. Federal regulations require states to maintain driving records for commercial drivers for a set period of time and explicitly prohibit states from removing information from the record – a practice referred to as “masking.”

In summary, redaction, sealing or masking of elements of the driving record – even of sealed or pardoned convictions – would be prohibited under federal law. A violation of federal law would compromise federal highway funding and potentially Maine’s ability to license commercial drivers who could operate across state lines.

### **Impact on the Fair Chance Employment Act**

Employers seeking to employ a CDL driver are required by federal statute and regulation to check the driving records of the CDL driver upon hiring and annually thereafter. While the driving record is not legally “criminal history record information,” it seems that exceptions noted in Section 4 of the Fair Chance Employment Act would apply. Note a felony conviction does not necessarily preclude a driver from operating a commercial motor vehicle unless the offense involved the use of a motor vehicle, either commercial or non-commercial. Therefore, it is the complete driving record and any offenses related to the driving record, not the criminal record, that must be reviewed by the employer before hiring a CDL driver.

### **Summary**



While it may contain information about criminal violations, a driving record is not a criminal record and should not be viewed as such. It's a safety record – used as the basis for determinations ranging from whether the license should be suspended or revoked (due to an accumulation of demerit points in a 3-year period); insurance rates; ability to be licensed by another state; qualification for a CDL or further endorsements like the ability to transport hazardous materials.

Our mission at the BMV is safety of the roadways, and we keep driving records – not to punish individuals but to assess safety. While we support the goals and indeed the extraordinary positive impact of pardoning criminal convictions and sealing criminal records, the consequence of masking any aspect of the driving record that's required to be shared under federal law and interstate compact could have significant negative collateral consequences for the State of Maine, especially with regards to federal highway funds. For those reasons, we would ask the committee to approach consideration of changing the way driving records are kept and disseminated with great care.

Thank you for your consideration, and I would be happy to answer any questions.



## MAINE COMMISSION ON DOMESTIC AND SEXUAL ABUSE

The Maine Commission on Domestic and Sexual Abuse is established by statute and has existed since 1990. The Commission’s statutory charge is to “advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse.”<sup>1</sup>

The Abuse Commission is a multidisciplinary group, including representatives of the domestic violence and sexual assault coalitions; a mental health provider; victims of sexual assault and domestic violence; a district attorney; a police chief; a sheriff; attorneys, a representative from the AG’s Office; the State Police; the Commissioner or the Commissioner’s designee from DHS, DPS, DOE, DOL, and DOC; a domestic violence intervention provider; tribal representatives; and four members representing underserved populations. In addition, the Chief Justice appoints one person to serve on the Commission in an advisory capacity.

The Abuse Commission recognizes the need for criminal justice reform in Maine, joins in prioritizing this conversation, and believes there is much common ground held. The Abuse Commission believes that criminal justice reform, including the act of limiting access to criminal records, can be particularly helpful for survivors of human trafficking or domestic violence charged with crimes of reactive or resistant violence. We believe that careful thought must be given when developing any record relief proposal and must include careful consideration of the legal system’s obligation and accountability to victims of crime in Maine. Furthermore, we understand that any system seeking to limit access to criminal records must include some thoughtful and important exceptions.

The Abuse Commission strongly discourages any record relief option that seeks to completely erase the existence of the record, such as expungement, or that limits a victim’s ongoing access to the record. The effects of crime on the person who has been harmed can last for decades — financially, emotionally, and sometimes physically. Expungement erases that harm for the harm doer, as though it has never happened. It does not, however, do that for the crime victim.

In Maine, the current record sealing structure excludes records from public access but allows victims to get access without restriction. The Abuse Commission strongly urges that any

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<sup>1</sup> [Title 19-A, §4115: Maine Commission on Domestic and Sexual Abuse](#)

changes to this structure must not reduce crime victims' access to records. Beyond the importance of not erasing the reality of the victimization they experienced, victims of domestic violence or sexual assault sometimes need to obtain relevant documents concerning the crime committed against them for the purposes of supporting future litigation either in family court, protection from abuse proceedings, or civil suits for damages. The Abuse Commission believes that any record sealing structure needs to take care to allow victims to get access without restriction, or limitations of time.

The Abuse Commission strongly urges against any system that would automatically limit or seal access to records for crimes involving victims after a set amount of time. Currently in Maine, records may only be sealed if the person has petitioned to have the conviction sealed and they have fully satisfied all sentencing conditions. When thinking of an automatic process, the Abuse Commission asks and elevates that we take into consideration factors such as payment of restitution, obligations for victim notification, and opportunities for victim engagement in the process.

The Abuse Commission understands that when weighing the factors above, there is often a desire to carve out an exception that would allow for domestic violence and sexual assault crimes to be treated differently from other crimes. This approach is often seen as a way of recognizing the deeply personal nature of these crimes, the impact they have on survivors, and the desire to ensure ongoing safety for individuals and the public. To the extent it is being considered, the Abuse Commission cautions any overly simplified process where "non-violent" crimes are treated differently from "violent" crimes without clear definitions. In the context of domestic violence, crimes such as stalking, violation of a protection order, or violation of conditional release are especially concerning. These crimes do not have violence as an element of the crime itself, and yet indicate patterned behavior and have been flagged as risk factors for homicide. Indeed, in its 12<sup>th</sup> Biennial Report, Maine's own Domestic Abuse Homicide Review Panel observed that offenders stalked victims in 8 of the 15 homicides reviewed, and in 80% of the intimate partner cases reviewed<sup>2</sup>. The Panel further observed that 'low level' violations of Protection From Abuse Orders may in and of itself be an indication of manipulation and danger, independent of whether the individual behaviors or violations were extreme or violent.<sup>3</sup>

The Abuse Commission acknowledges the importance of addressing collateral consequences of criminal conviction, many of which impact a person's ability to be economically safe and stable. Oftentimes, economic stability for domestic violence victims is tied to the person who harmed them, particularly when there are common children and/or marriage involved. However, some collateral consequences have ongoing and necessary purpose, such as prohibitions on the possession of firearms. In Maine, it is noted by the Maine Domestic Abuse Homicide Review Panel, that "people who commit domestic abuse homicide use firearms more often than any

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<sup>2</sup> "Voices Against Violence: The 12<sup>th</sup> Biennial Report of the Maine Domestic Abuse Homicide Review Panel," (2018).

<sup>3</sup> "Voices Against Violence: The 12<sup>th</sup> Biennial Report of the Maine Domestic Abuse Homicide Review Panel," (2018).

other means. Often the person who uses a firearm to commit domestic violence homicide subsequently uses that same weapon in a death by suicide.”<sup>4</sup> The Panel recommends continued work to include firearms relinquishment by people who are prohibited from possessing firearms due to qualifying criminal convictions. The Abuse Commission fears that the work to prevent prohibited persons from accessing firearms and causing significant harm to their domestic partners and society as a whole could be impacted by certain limitations on access to or erasure of past criminal convictions.

The Abuse Commission recognizes additional times when access to past criminal conduct is utilized by the criminal justice system to ensure victim safety, such as setting appropriate bail<sup>5</sup>. ODARA is a validated, evidence-based domestic violence risk assessment tool recommended by the Abuse Commission and approved by the Department of Public Safety.<sup>6</sup> Utilized across the state of Maine, ODARA estimates the risk that a domestic violence offender will assault a partner again. The accurate scoring and administration of ODARA relies in part on past criminal history. The Abuse Commission fears that eliminating or limiting law enforcement access to past criminal conduct would impact the use of ODARA in Maine and result in less safety for victims.

The Abuse Commission believes that any path forward in sealing or limiting access to criminal history would be best done when balancing both the positive impact for those seeking relief and the unintended consequences for survivors of crime, specifically and especially domestic abuse and sexual assault crimes. Thank you for the invitation to share these comments with the Criminal Records Review Committee on the duties outlined in the Committee’s charge. If the Abuse Commission can be of further assistance in the Committee’s work, please let us know.

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<sup>4</sup> “The Power of Collaboration from intervention to prevention: The 14<sup>th</sup> Biennial Report of the Maine Domestic Abuse Homicide Review Panel,” (2023).

<sup>5</sup> 19-A M.R.S. §4012(6)

<sup>6</sup> [Title 5, section 12004-I, subsection 74-C,](#)

## CHAPTER 310-A

### POST-JUDGMENT MOTION TO SEAL CRIMINAL HISTORY RECORD

#### §2261. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Administration of criminal justice.** "Administration of criminal justice" has the same meaning as in Title 16, section 703, subsection 1.

**2. Another jurisdiction.** "Another jurisdiction" has the same meaning as in Title 17-A, section 2, subsection 3-B.

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

**4. Criminal justice agency.** "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.

**5. Dissemination.** "Dissemination" has the same meaning as in Title 16, section 703, subsection 6.

**6. Eligible criminal conviction.** Except for motions under sections 2262-A or 2262-B, "Eligible criminal conviction" means a conviction for a current or former Class E crime, except a conviction for a current or former Class E crime under Title 17-A, chapter 11. For motions under section 2262-A, "eligible criminal conviction" means a criminal conviction for engaging in prostitution under Title 17-A, former section 853-A. For motions under section 2262-B, "eligible criminal conviction" means a conviction for any current or former crime.

**7. Sealed record.** "Sealed record" means the criminal history record information relating to a specific criminal conviction that a court has ordered to be sealed under section 2264.

**8. Sexual exploitation.** "Sexual exploitation" means engaging in the exchange of sex for money or resources because of a person's history of trauma, adverse childhood experiences, substance use disorder or other circumstances of victimization, exploitation or oppression.

**9. Sex trafficking.** "Sex trafficking" means promoting sexual exploitation by compelling a person to enter into, engage in or remain in sexual exploitation, promoting the sexual exploitation of a person less than 18 years of age or promoting the sexual exploitation of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

#### §2262. Statutory prerequisites for sealing criminal history record information

Except as provided in section 2262-A, criminal history record information relating to a specific criminal conviction may be sealed under this chapter only if:

**1. Eligible criminal conviction.** The criminal conviction is an eligible criminal conviction;

**2. Time since sentence fully satisfied.** At least 4 years have passed since the person has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the eligible criminal conviction;

**3. Other convictions in this State.** The person has not been convicted of another crime in this State and has not had a criminal charge dismissed as a result of a deferred disposition pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67, subchapter 4 since the time at which the person fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal conviction up until the time of the order;

**4. Convictions in another jurisdiction.** The person has not been convicted of a crime in another jurisdiction since the time at which the person fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal conviction up until the time of the order;

**5. Pending criminal charges.** The person does not have any presently pending criminal charges in this State or in another jurisdiction; and

**6. Age of person at time of commission.** At the time of the commission of the crime underlying the eligible criminal conviction, the person had in fact attained 18 years of age but had not attained 28 years of age.

**§2262-A. Special statutory prerequisites for sealing criminal history record information related to engaging in prostitution**

Criminal history record information relating to a criminal conviction for engaging in prostitution under Title 17-A, former section 853-A must be sealed under this chapter if:

**1. Eligible criminal conviction.** The criminal conviction is an eligible criminal conviction;

**2. Time since sentence fully satisfied.** At least one year has passed since the person has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the eligible criminal conviction; and

**3. Other convictions.** The person has not been convicted of a violation of Title 17-A, section 852, 853, 853-B or 855 or for engaging in substantially similar conduct in another jurisdiction.

**§2262-B. Sealing criminal history record information of victims of sex trafficking or sexual exploitation**

Criminal record information relating to a criminal conviction shall be sealed under this chapter if the person filing the motion establishes:

1. The person has been a victim of sex trafficking or sexual exploitation; and

2. The commission of the crime for which the person was convicted was a substantial result of sex trafficking or sexual exploitation.

A motion under this section may be filed at any time after the criminal conviction is entered.

**§2263. Motion; persons who may file**

A person may file a written motion seeking a court order sealing the person's criminal history record information relating to a specific criminal conviction in the underlying criminal proceeding based on a court determination that the person satisfies the statutory prerequisites specified in section 2262, ~~or~~ 2262-A or 2262-B. The written motion must briefly address each of the statutory prerequisites.

**§2264. Motion and hearing; process**

**1. Filing motion.** A motion filed pursuant to section 2263 must be filed in the underlying criminal proceeding. After the motion is filed, the clerk shall set the motion for hearing. If multiple motions are filed, the court shall consolidate the motions to one location.

**2. Counsel.** The person filing a motion pursuant to section 2263 has the right to be represented by counsel but is not entitled to assignment of counsel at state expense.

**3. Representation of State.** The prosecutorial office that represented the State in the underlying criminal proceeding may represent the State for purposes of this chapter. On a case-by-case basis, a different prosecutorial office may represent the State on agreement between the 2 prosecutorial offices.

**4. Evidence.** The Maine Rules of Evidence do not apply to a hearing on a motion under this section. Evidence presented by the participants at the hearing may include testimony, affidavits and other reliable hearsay evidence as permitted by the court.

For motions filed under section 2262-B, The person filing the motion and any witnesses may participate remotely, unless the court finds that the person filing the motion or a particular witness resides in this state and interests of justice require in person participation Official documentation of a person's status as a victim of sexual exploitation or sex trafficking is not required. However, if such official documentation is presented, it creates a presumption that the person's participation in an offense was a substantial result of the person's having been a victim of sexual exploitation or sex trafficking. Official documentation includes but is not limited to: (1) a copy of an official record, certification, or eligibility letter from a federal, state, tribal or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the person filing the motion was a victim of sex trafficking or sexual exploitation; (2) an affidavit or sworn testimony from a member of the clergy, a medical professional, a staff member of a victim services organization, or other professional from whom the person filing the motion has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of sex trafficking or sexual exploitation; or (3) any other evidence the court determines is of sufficient credibility or probative value.

**5. Hearing; order; written findings.** The court shall hold a hearing on a motion filed under this section, except that—for motions filed under 2262-B, the court may grant the motion without a hearing if the representative for the State consents to the motion. At the conclusion of the hearing, if the court determines that the person who filed the motion has established by a preponderance of the evidence each of the statutory prerequisites specified in section 2262, ~~or 2262-A,~~ or 2262-B the court shall grant the motion and shall issue a written order sealing the criminal history record information of the eligible criminal conviction that was the subject of the motion. If, at the conclusion of the hearing, the court determines that the person has not established one or more of the statutory prerequisites specified in section 2262, ~~or 2262-A,~~ or 2262-B the court shall issue a written order denying the motion. The order must contain written findings of fact supporting the court's determination. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State pursuant to subsection 3.

**6. Notice to State Bureau of Identification.** If the court issues an order under subsection 5 that includes the sealing of a criminal conviction maintained by the State Bureau of Identification pursuant to Title 25, section 1541 and previously transmitted by the court pursuant to Title 25, section 1547, the court shall electronically transmit notice of the court's order to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. Upon receipt of the notice, the State Bureau of Identification shall promptly amend its records relating to the person's eligible criminal conviction to reflect that the criminal history record information relating to that criminal conviction is sealed and that dissemination is governed by section 2265. The State Bureau of Identification shall send notification of compliance with this subsection to the person's last known address.

**7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty to notify.** Except for those records sealed under section 2262-A or 2262-B, nNotwithstanding a court order sealing the criminal history record information pursuant to subsection 5, if at any time subsequent to

the court's order the person is convicted of a new crime in this State or in another jurisdiction, the criminal history record information must be unsealed.

A. In the event of a new criminal conviction, the person shall promptly file a written notice in the underlying criminal proceeding of the person's disqualification from eligibility, identifying the new conviction, including the jurisdiction, court and docket number of the new criminal proceeding. If the person fails to file the required written notice and the court learns of the existence of the new criminal conviction, the court shall notify the person of the apparent existence of the new conviction and offer the person an opportunity to request a hearing to contest the fact of a new conviction.

B. If the person requests a hearing under paragraph A, the court shall, after giving notice to the person and the appropriate prosecutorial office, hold a hearing. At the hearing, the person has the burden of proving by clear and convincing evidence that the person has not been convicted of a crime subsequent to issuance of the sealing order. At the conclusion of the hearing, if the court determines that the person has not satisfied the burden of proof, it shall find that the person has been newly convicted of the crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. If, at the conclusion of the hearing, the court determines that the person has satisfied the burden of proof, it shall find that the person has not been convicted of the new crime and issue a written order certifying this determination. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State.

C. If the person does not request a hearing under paragraph A, the court shall determine that the person has not satisfied the burden of proof and the court shall find that the person has been convicted of the new crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State.

**8. Notice of new crime.** If the court orders the unsealing of the record under this section, the court shall electronically transmit notice of the court's order to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification upon receipt of the notice shall promptly amend its records relating to the person's criminal history record information relating to that criminal conviction to unseal the record. The State Bureau of Identification shall send notification of compliance with that requirement to the person's last known address.

#### **§2265. Special restrictions on dissemination and use of criminal history record information**

Notwithstanding Title 16, section 704, the criminal history record information relating to a criminal conviction sealed under section 2264 is confidential, must be treated as confidential criminal history record information for the purposes of dissemination to the public under Title 16, section 705 and may not be disseminated by a criminal justice agency, whether directly or through any intermediary, except as provided in Title 16, section 705 and as set out in this section. In addition to the dissemination authorized by Title 16, section 705, a criminal justice agency may disseminate the sealed criminal history record information to:

**1. Subject of conviction.** The person who is the subject of the criminal conviction or that person's designee;

**2. Criminal justice agency.** A criminal justice agency for the purpose of the administration of criminal justice and criminal justice agency employment. For the purposes of this subsection, dissemination to a criminal justice agency for the purpose of the administration of criminal justice includes:

A. Dissemination and use of the criminal history record information relating to the sealed record by an attorney for the State or for another jurisdiction as part of a prosecution of the person for a



new crime, including use in a charging instrument or other public court document and in open court; and

B. Dissemination and use of the criminal history record information relating to the sealed record as permitted by the Maine Rules of Evidence and to comply with discovery requirements of the Maine Rules of Civil Procedure and the Maine Rules of Unified Criminal Procedure;

**3. Secretary of State.** The Secretary of State to ensure compliance with state and federal motor vehicle laws;

**4. Victims.** The victim or victims of the crime related to the conviction or:

A. If the victim is a minor, to the parent or parents, guardian or legal custodian of the victim; or

B. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder, intellectual disability or autism or other reason, to an immediate family member, guardian, legal custodian or attorney representing the victim;

**5. Financial services regulatory agencies.** The Department of Professional and Financial Regulation, Bureau of Insurance, Bureau of Consumer Credit Protection, Bureau of Financial Institutions and Office of Securities to ensure compliance with Titles 9-A, 9-B, 10, 24, 24-A and 32, as applicable, and any state or federal requirement to perform criminal background checks by those agencies;

**6. Professional licensing agencies.** Licensing agencies conducting criminal history record checks for licensees, registrants and applicants for licensure or registration by the agencies; licensing agencies performing regulatory functions enumerated in Title 5, section 5303, subsection 2; and the State Board of Veterinary Medicine pursuant to Title 32, chapter 71-A to conduct a background check for a licensee;

**7. Financial institutions.** A financial institution if the financial institution is required by federal or state law, regulation or rule to conduct a criminal history record check for the position for which a prospective employee or prospective board member is applying; or

**8. Subject to fingerprinting.** An entity that is required by federal or state law to conduct a fingerprint-based criminal history record check pursuant to Title 25, section 1542-A.

**§2266. Limited disclosure of eligible criminal conviction**

A person whose eligible criminal conviction is the subject of a sealing order under section 2264 may respond to inquiries from persons other than criminal justice agencies and other than entities that are authorized to obtain the sealed criminal history record information under section 2265 by not disclosing the existence of the eligible criminal conviction without being subject to any sanctions under the laws of this State. Other than when responding to criminal justice agencies or when under oath while being prosecuted for a subsequent crime, a person whose criminal conviction is sealed does not violate Title 17-A, section 451, 452 or 453 by not disclosing the sealed criminal conviction.

**§ 2266-A. Business Screening Services; Data Practices.**

**1. Definitions.**

For purposes of this section:

(a) "Business screening service" means a person regularly engaged in the business of collecting, assembling, evaluating, or disseminating criminal records on individuals for a fee. Business screening service does not include a government entity or the news media.

(b) "Conviction" means any of the following accepted and recorded by the court:

(1) a plea of guilty; or

(2) a verdict of guilty by a jury or a finding of guilty by the court.

(c) "Criminal record" means a record of an arrest, citation, prosecution, criminal proceeding, or conviction.

## **2.Criminal records.**

A business screening service must only disseminate a criminal record that reflects the complete and accurate record provided by the source of the data. A complete and accurate record is a record that has:

(1) been updated within 30 days of its receipt; or

(2) been verified with the source of the data within the previous 90 days as being up-to-date.

## **3.Correction and deletion of records.**

(a) If the completeness or accuracy of a criminal record maintained by a business screening service is disputed by the individual who is the subject of the record, the screening service shall, without charge, investigate the disputed record. In conducting an investigation, the business screening service shall review and consider all relevant information submitted by the subject of the record with respect to the disputed record to determine whether the record maintained by the screening service accurately reflects the content of the official record, as maintained by the official government custodian.

(b) If, upon investigation, the screening service determines that the record does not accurately reflect the content of the official record, the screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to be sealed or the subject of a pardon, the business screening service shall promptly delete the record. A business screening service that complies with this subdivision is not in violation of this section.

(c) A business screening service may terminate an investigation of a disputed record if the business screening agency reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and provide a description of any information required to investigate the disputed record.

(d) The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the agency receives notice of the dispute from the subject of the record.

## **3. Deletion of sealed records.**

If a business screening service knows that a criminal record has been sealed or is the subject of a pardon, the screening service shall promptly delete the record.

## **4.Date and notice required.**

A business screening service that disseminates a criminal record that was collected on or after July 1, 2010, must include the date when the record was collected by the business screening service and a notice that the information may include criminal records that have been sealed or otherwise have become inaccessible to the public since that date.

**5. Remedies; relationship to Fair Credit Reporting Act.**

(a) A business screening service that violates this section is liable to the individual who is the subject of the record for a penalty of \$1,000 or actual damages caused by the violation, whichever is greater, plus costs and disbursements and reasonable attorney fees.

(b) A business screening service in compliance with the applicable provisions of the Fair Credit Reporting Act, United States Code, title 15, section 1681, et seq., is considered to be in compliance with this section. Those entities are subject to the state remedies under this subdivision when their actions would violate this section and federal law.

**6. Service of process; jurisdiction.**

A business screening service that disseminates criminal record information in this state or that obtains a criminal record from a government entity, or a court in this state is deemed to have consented to service of process in this state for purposes of Title 13-B, Chapter 12, sections 1212-A and 1213, or other applicable law and to the jurisdiction of courts in this state for actions involving a violation of this section or for the recovery of remedies under this section.

**§2267. Review of determination of eligibility; review of determination of subsequent criminal conviction**

A written order entered under section 2264, subsection 5 or 7 may be reviewed by the Supreme Judicial Court.

**1. Appeal by person.** A person aggrieved by a written order under section 2264, subsection 5 or 7 may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**2. Appeal by State.** If the State is aggrieved by a written order under section 2264, subsection 5 or 7, it may appeal as of right, and a certificate of approval by the Attorney General is not required. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**§2268. Eligible criminal conviction sealed under former chapter 310**

Notwithstanding Title 16, section 704, the criminal history record information relating to a criminal conviction for which the court has determined the person is entitled to special restrictions on dissemination and use under former section 2254 is confidential and may not be disseminated by a criminal justice agency, whether directly or through any intermediary, except to the person who is the subject of the criminal conviction or that person's designee and to a criminal justice agency for the purpose of the administration of criminal justice and criminal justice agency employment. For the purposes of this section, dissemination to a criminal justice agency for the purpose of the administration of criminal justice includes dissemination and use of the criminal history record information relating to the qualifying criminal conviction by an attorney for the State or for another jurisdiction as part of a prosecution of the person for a new crime, including use in a charging instrument or other public court document and in open court.

Section 2264, subsection 7 applies to a criminal conviction for which the court has determined the person is entitled to special restrictions on dissemination and use under former section 2254 if the person is convicted of a new crime.

**§2269. Violation**

A person who, in violation of section 2265 or 2268, intentionally disseminates sealed criminal history record information relating to a criminal conviction knowing it to be in violation of section 2265 or 2268 is guilty of unlawful dissemination of sealed records. Violation of this section is a Class E crime.



## CHAPTER 305-C

### POST-CONVICTION REVIEW FOR VICTIMS OF SEX TRAFFICKING AND SEXUAL EXPLOITATION

#### **§2139. Definitions**

As used in this chapter, the following terms have the following meanings.

**1. Criminal judgment.** "Criminal judgment" means a judgment of conviction of a crime, the orders of adjudication and disposition in a juvenile case and a judgment of not criminally responsible by reason of insanity.

**2. Assigned justice or judge.** "Assigned justice or judge" means the Justice or Active Retired Justice of the Supreme Judicial Court, the Justice or Active Retired Justice of the Superior Court or the judge authorized to sit in the Superior Court on post-conviction review cases who is assigned the post-conviction review proceeding when a special assignment has been made. It means any justice, active retired justice or authorized judge attending to the regular criminal calendar when the post-conviction review proceeding is assigned to the regular criminal calendar.

**3. Compelling.** "Compelling" includes but is not limited to:

A. The use of a drug or intoxicating substance to render a person incapable of controlling that person's conduct or appreciating its nature;

B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug-dependent or alcohol-dependent person. "Drug-dependent or alcohol-dependent person" means a person who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence, or both, arising from the use of the drugs or alcohol on a continuing basis;

C. Making material false statements, misstatements or omissions;

D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;

E. Requiring the sexual exploitation of a person to retire, repay or service an actual or purported debt; and

F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in sexual exploitation, the actor or another person will:

(1) Cause physical injury or death to a person;

(2) Cause damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, Class B or Class C crime or criminal restraint;

(4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person;  
or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

**4. Sentence.** "Sentence" means the punishment imposed in a criminal proceeding or the disposition imposed in a juvenile proceeding.

**5. Sex Trafficking.** "Sex trafficking" means promoting sexual exploitation by compelling a person to enter into, engage in or remain in sexual exploitation, promoting the sexual exploitation of a person less than 18 years of age or promoting the sexual exploitation of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

**6. Sexual Exploitation.** "Sexual exploitation" means engaging in the exchange of sex for money or resources because of a person's history of trauma, adverse childhood experiences, substance use disorder or other circumstances of victimization, exploitation or oppression.

#### **§2140. Purpose**

This chapter recognizes that victims of sex trafficking or sexual exploitation may commit a variety of criminal acts that are a substantial result of manipulation, intimidation or compulsion by their trafficker. Victims of sex trafficking or sexual exploitation who committed crimes under such circumstances did not have the requisite culpability. Therefore, sustaining a conviction further contributes to the harm and trauma experienced by these crime victims. This chapter provides a mechanism for reversal of the criminal judgment and should be liberally construed to effectuate this purpose.

#### **§2141. Jurisdiction and venue**

**1. Jurisdiction.** Jurisdiction shall be in the Superior Court.

**2. Supreme Court Justice or authorized Judge of the District Court.** A single Justice of the Supreme Judicial Court, an Active Retired Justice of the Supreme Judicial Court or a judge authorized to sit in the Superior Court on post-conviction review cases has and shall exercise jurisdiction and has and shall exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court relative to a proceeding under this chapter.

**3. Venue.** Venue must be in the county in which the criminal judgment was entered. Venue may be transferred by the assigned justice or judge at that assigned justice's or judge's discretion, except that, if multiple post-conviction review motions are filed, they shall be consolidated to one location and assigned a single justice or judge.

#### **§2129. Petition and procedure**

1. **Motion; persons who may file.** A person for whom one or more criminal convictions in which a final criminal judgment has been entered were the substantial result of the person's sexual exploitation or being subjected to sex trafficking may file a written motion in the underlying criminal proceeding seeking to have the criminal judgment reversed and to correct the court records and related criminal justice agency records. The same motion may also be filed on behalf of such a person by an attorney for the State or by the court. The court shall not assess fees for the filing or service of a motion under this chapter.
2. **Timing for filing.** A motion under this section for post-conviction review to reverse the criminal judgment and correct the record may be filed at any time after a final criminal judgment has been entered.
3. **Service of the motion.** The assigned justice or judge shall determine upon whom and how service of the motion is to be made and enter an appropriate order. The order shall direct the appropriate representative for the State to make all reasonable attempts to notify all crime victims in the underlying matter about the motion.
4. **Representation of the State.** The prosecutorial office that represented the State in the underlying criminal proceeding shall represent the State for the purposes of this chapter. If underlying matters involving multiple prosecutorial offices are consolidated to a single location, a different prosecutorial office may represent the State on any matter where there is agreement between the two prosecutorial offices.
5. **Counsel.** If the court finds that the person who files the motion under section 2192 or on whose behalf the motion is filed is indigent, the court may appoint counsel for the person at any time during the proceedings.
6. **Evidence.** The Maine Rules of Evidence do not apply to the hearing on the motion filed under this chapter, and evidence presented at the hearing by the participants may include testimony, affidavits and other reliable hearsay evidence as permitted by the court. The person filing the motion and any witnesses may participate remotely in any proceeding under this chapter, unless the court finds that the person filing the motion or a particular witness resides in this state and interests of justice require in person participation Official documentation of a person's status as a victim of sexual exploitation or sex trafficking is not required. However, if such official documentation is presented, it creates a presumption that the person's participation in an offense was a substantial result of the person's having been a victim of sexual exploitation or sex trafficking. Official documentation includes but is not limited to: (1) a copy of an official record, certification, or eligibility letter from a federal, state, tribal or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the person filing the motion was a victim of sex trafficking or sexual exploitation; (2) an affidavit or sworn testimony from a member of the clergy, a medical professional, a staff member of a victim services organization, or other professional from whom the person filing the motion has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of sex trafficking or sexual exploitation; or (3) any other evidence the court determines is of sufficient credibility or probative value.
7. **Hearing on motion.** The assigned justice or judge shall hold a hearing on the motion, except that the court may grant a motion for relief under this chapter without hearing if: (1) the representative of the State consents to the motion; (2) no objection to the relief requested has

been filed by a victim or victim's representative; and (3) at least 60 days have elapsed since service of the motion on the representative of the State and all reasonable attempts by the State to notify all victims have concluded.

8. **Procedure in proceedings pursuant to this chapter.** In all respects not covered by statute, the procedure in proceedings under this chapter is as the Supreme Judicial Court provides by rule.

**§2142. Relief**

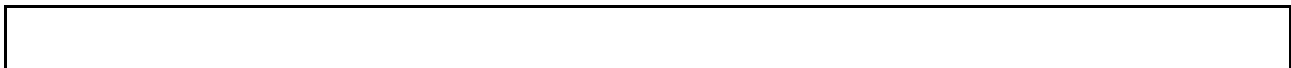
At the conclusion of the hearing, if the court finds that the person who filed the motion has established by a preponderance of the evidence that the person has experienced sex trafficking or sexual exploitation and that the commission of the crime for which the person is seeking relief under this chapter was a substantial result of the sex trafficking or sexual exploitation, the court shall issue a written order vacating the conviction and may take such additional steps as the court determines appropriate in the circumstances. A copy of the court's written order granting or denying the motion must be provided to the person. If the court grants the motion following the hearing in subsection 5, it shall additionally determine what court records and related criminal justice records require correction and shall enter a written order specifying the corrections to be made in the court records and the records of each of the appropriate criminal justice agencies.

**§2143. Review of final judgment**

A final judgment entered under this chapter may be reviewed by the Supreme Judicial Court sitting as the Law Court.

**1. Appeal by petitioner.** A petitioner aggrieved by the final judgment may appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

**2. Appeal by State.** The State aggrieved by the final judgment may appeal as of right and no certificate of approval by the Attorney General is required. The time for taking the appeal and the manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule.







# *for* **Criminal Record Relief for Trafficking Survivors**

**Updating Grades and Rubric to Reflect  
Current Improvements and Changes**





Polaris would like to thank **all the survivors who shared their frustrating, painful, and unjust experiences to help us bring these laws to life. Some of their stories and quotes are reflected here. Many are not.** The quotes from survivors in this report are to detail and emphasize in survivors' own words the challenges and difficulties they face in getting criminal record relief as well as how important it can be to their ability to rebuild their lives. These quotes come from focus groups and individual interviews with Polaris as well as reports and communication with other non profit organizations that work with trafficking survivors on criminal record relief.

Special thanks to **Kia Dupclay** (Program Director for Restoration Diversion Services INC), **Keyana Marshall**, and **Jessica Kauffman**, survivor leaders, for their expertise and assistance on this project. We remain grateful to **Beth Jacobs**, survivor advocate/leader whose groundbreaking research helped us to understand the depth of the problem.



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## Introduction

Jessica was 17 when her trafficker — the man she would have called her boyfriend — turned her out to sell sex and support him. She was traded to other pimps, moved from state to state, and racked up a string of prostitution-related misdemeanors and DUIs as a result of her trafficking. Today, Jessica is raising her family in Idaho and working to clear these charges from her record so she can rent a home for them. She is still in transitional housing though, because with her record, many landlords won't rent to her. Jessica, like many trafficking survivors, is caught in an ironic loop. She needs money — a lot of it — to cover the cost of clearing her record in multiple states. Yet the fact that she has a record makes it difficult or impossible for her to get a job that would allow her to earn that money. Already she has paid \$2,500 to clear fines and pay for legal help for charges in California, and she can't do anything about charges in Iowa until she pays off \$700 in fines. These fines are the result of convictions that logically never should have happened since Jessica was a trafficking victim under the control of someone else.

Jessica's situation is just a single example of the illogical, frustrating, retraumatizing, and expensive process many survivors of human trafficking endure to get their criminal records cleared so they can move on from their exploitation. Most states have some kind of statute recognizing that survivors of sex and labor trafficking should not be held criminally responsible for crimes they commit while they are under the control of a trafficker. That's good news, but it doesn't quite tell the story. While some of these laws work well, many are in dire need of improvement if they are to serve the intended purpose. What's more, there are still far too many states in which there is no trafficking-specific pathway to criminal record relief.

In March 2019, Polaris released [a report grading all 50 states and D.C. on the effectiveness and completeness of their criminal record relief laws](#) at the time. This report updates the report cards to reflect changes to laws, both for better and for worse, enacted since the original publication. **It is important to note that the new grades do not necessarily reflect an exact comparison - as in, moving from a "C" grade to an "A", for example, as the grading system or rubric has been revised in an effort to most accurately reflect what survivors have available to them in each state.**

“I've had my record expunged, which is great. It's awesome, but it took a lot of years, it took having to rehash my trauma. All of that other stuff I don't need.”



Stock photo. Posed by model.



We returned to this issue because criminal record relief is a clear priority for the survivor community. As part of the National Survivor Study<sup>1</sup>, a research partnership with survivors, [Polaris conducted online and phone surveys with 457 sex and labor trafficking survivors](#). Sixty-two percent of survivors reported being cited, detained, or arrested by law enforcement. Most of those survivors arrested (81 percent) were arrested, detained, or cited during their trafficking situation. Of those arrested, 71 percent had criminal records that resulted from the original citation, detention, or arrest. This led to a majority of survivors who had been arrested (90 percent) reporting that all or at least some of their criminal record was related to their trafficking victimization. Seventy-seven percent of respondents with a criminal record reported needing assistance removing or clearing their criminal records at some time after their exit from their trafficking situation.

“**When you have that going against you, that can stop you in your tracks from achieving anything.**”

An earlier, survivor-led National Survivor Network (NSN) study [shows that the vast majority of human trafficking survivors have some kind of criminal record](#) as a result of their trafficking experience.<sup>2</sup> These unjust records make it difficult for survivors to rent apartments, get jobs, and apply for certain kinds of scholarships and government assistance. They can even affect a parent's ability to maintain custody of their children or coach their kid's soccer teams.

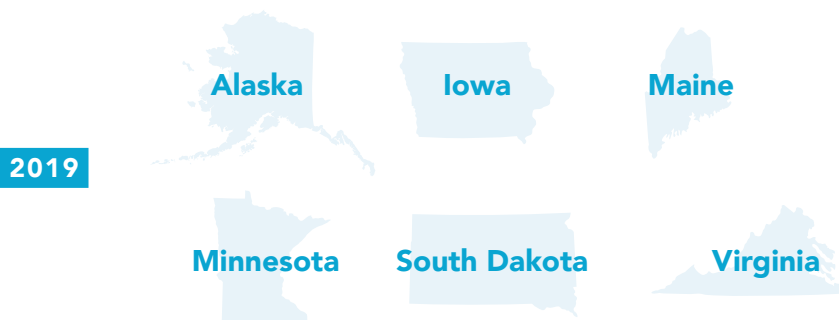
Notably, there is still no federal pathway to criminal records relief for trafficking survivors, although efforts are being made in both chambers of Congress to change that.

Polaris and our survivor partners are gratified at the improvements made since the original report and excited to work with partners to move additional change forward.



## More States Have Some Type of Relief for Survivors

In 2019, six states and the federal government did not have a trafficking-specific criminal record relief process or law.



Minnesota does have a pathway for citizens to have records vacated or expunged under a range of circumstances including trafficking, but the law does not apply directly to trafficking survivors. In 2019, Virginia passed and now has a law for trafficking survivors. South Dakota did as well; however, their statute only applies to minors.

Today, only three states have no criminal record relief statute specifically for trafficking survivors.



## In Some States, Relief Is Only for Survivors Who Were Minors When Trafficked.

In 2019, four states had a pathway to criminal record relief for trafficking survivors who were trafficked and committed crimes when they were under the age of 18.



Today, Georgia, Louisiana, and Tennessee's laws apply to survivors of trafficking regardless of the age they were trafficked. The states that still only have relief for trafficking survivors trafficked and who committed crimes when they were under the age of 18 are:





## ▲ Some States Have Made Significant Progress

- **New York** became the first state to enact a specific statute on criminal record relief for trafficking survivors in 2010. In 2021, the law was revisited, and changes were made, such as adding confidentiality provisions, expanding the offenses covered, and removing any time limitations before survivors can apply for relief. New York's new statute provides relief for sex and labor trafficking survivors, as well as survivors trafficked as minors and adults, while ensuring the process is as easy, efficient, and safe as possible.
- In 2019, **Georgia** received a zero because the criminal record relief statute for trafficking survivors only applied to survivors who were minors at the time of arrest or conviction. Georgia's new legislation provides relief to more survivors and is expansive in what offenses are covered. The new statute also includes the elimination of fees previously required to apply for record relief. Notably, Georgia is the first state to include a provision returning already paid fees and fines that were part of the survivor's conviction once the conviction is vacated.
- In May 2022, **Louisiana** passed legislation that applies to more survivors in the state — not just minors. This legislation also eliminates fees for trafficking survivors to apply for criminal record relief and is one of the first states to include a reporting mechanism through which district attorneys are required to submit information on how many survivors are applying for relief and the outcomes (acceptances and denials) of those requests.
- In 2019, **Virginia** had no criminal record relief for trafficking survivors at all, while **Tennessee** had relief only for trafficking survivors who were arrested as minors. Newly enacted statutes for both states are still limited in the offenses covered and lack some of the other recommended provisions, but their new laws are significant steps forward and include some survivor-centered provisions. Notably, the Virginia law mandates that once a survivor's conviction is vacated, they can have fees or fines they paid as part of their conviction returned to them — one of the first statutes in the country to do so.
- **New Hampshire's** new law just went into effect in January 2023, and it expands the offenses covered to include all offenses and provides full criminal record relief for survivors. It also allows for survivors to use electronic communication in hearings which can be beneficial as survivors may be unable due to timing, expenses, or safety to travel to the location of the hearing.
- **New Jersey** also recently adopted new legislation in 2022 that expands the offenses covered from only those related to prostitution to include all except some serious offenses. It also includes protections for confidentiality and is not solely for convictions and adjudications of guilt but includes arrests, charges, complaints, and other records. Additionally, survivors are able to attend hearings electronically.

## △ Some Minor Changes to Correct Specific Statute Issues

- **Florida** eliminated a restriction that survivors could only apply for criminal record relief for one conviction at a time.
- **California** removed a restriction in which survivors had to wait a "reasonable time" before applying for criminal record relief.
- **Delaware** removed time restrictions, allowing for survivors to apply for criminal record relief at any time.

*\*This is not a comprehensive list of all the states who have addressed and modified their criminal record relief statutes, but an example of some of the improvements being made, including those that are making significant changes.*



## Federal Law

We are encouraged by the progress made in just a few years and by the availability of such strong examples for other states to follow. These innovative, survivor-centered, and meaningful improvements happened in states with leaders who represent the breadth of the political spectrum. There is no one political party that owns the compassion and common sense it takes to see the need for real, accessible ways for trafficking survivors to clear their criminal records. Across the United States, arrests, charges, and convictions for crimes — ranging from prostitution and possession to identity theft and financial crimes — continue to have a profound impact on trafficking survivors' attempts to obtain future employment and safe and affordable housing.

All that points to a very clear conclusion: It is time for the federal government to act. Congress must pass legislation to provide criminal record relief for survivors arrested and convicted for federal crimes, who currently have no option for relief. Your Senators and Representatives need to hear from you. Take action by urging your members of Congress to support real, inclusive, trafficking-specific federal criminal record relief for survivors of sex and labor trafficking.

Finally, please note that this report does not include pending legislation and other efforts in states that have not yet resulted in a new or different law. If you are a survivor, attorney who provides record relief, advocate, legislator, or other elected or non-elected government official, and you believe that your state has enacted improved legislation that is not included in this updated grading process or if you would like assistance or support in your work improving your record relief statute for survivors of trafficking and the overall grade in your state, please contact us at [policy@polarisproject.org](mailto:policy@polarisproject.org). We would love to help in any way we can to support your efforts and the hard but powerful work you do every day to improve these laws and support survivors.

This analysis is meant to be a tool for your work, not a judgment of it. You know your communities, what works, and what is possible, best. We are grateful for all you do.





## The Burden of a Criminal Record: Why It Matters

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**“When you have to put down prostitution on an application for a job or an apartment, there’s so much shame in that.”**

The first time trafficking survivors come into contact with law enforcement officers is often as an offender, not as a victim. Sex trafficking victims are commonly arrested for prostitution or for other crimes, such as possession of weapons or drugs, or identity theft — all of which most likely have been orchestrated in some way by their trafficker. Labor traffickers may force their victims to manufacture or sell drugs or to move drugs from place to place. Labor trafficking victims can also be arrested for possession of false identification documents, financial crimes, or minor crimes like trespassing. Children who are trafficked for sex and/or labor are often charged with status offenses like truancy and running away.

Of the 174 survivors in Polaris’s National Survivor Study (NSS)<sup>3</sup> who reported having a criminal record, 69 percent reported that it prevented them from getting or keeping a job, 63 percent reported their record affected their ability to receive education, training, or a professional license, 59 percent said their record affected their ability to get good, safe housing, and 35 percent of those with a criminal record who also had children reported their record affected their custody of their children.

A criminal record has a profound impact on the ability of any individual to obtain future gainful employment and find affordable and safe housing. Employers and landlords often run background checks. This can result in the automatic elimination of individuals who have a criminal history from the applicant pool, while other employers and landlords who have the discretion to hire or house those with criminal records do not give the applicant the opportunity to provide information about the circumstances surrounding their arrests.

**“There’s so many needs that you can’t get when you have a criminal record. It makes it more difficult to get your employment, it makes it more difficult to get housing, it makes it more difficult to get services. It affects everything.”**

Additionally, individuals with criminal records who want to begin or continue their education at a college, university, or even a vocational school may not be accepted due to their criminal record. Those who are admitted can struggle with the financial burden of paying for their education because they may be disqualified from financial aid or private loans.

**“With this program I’m part of, if you’re a victim and you have a record, they don’t give you the program because you have something on your record. Even if you were the victim. I feel that it’s very important that they overlook your record when it comes to you being the victim.”**



A criminal history can also impact the ability of parents to retain custody of their children and an individual's access to crucial government benefits. For example, some survivors in the NSN survey reported difficulties applying for food stamps because of their criminal records.<sup>4</sup> For foreign national survivors, the consequences may be more dire, as their ability to remain and/or work in the United States depends greatly on their criminal record.

“*[I] was required in Washington to register as a sex offender... as a result my children were taken away, and I lost these children for life.*”

**In 16 states, individuals with felony convictions lose their voting rights**, not only during their incarceration, but also for some time after their release.<sup>5</sup> **In 11 states, they lose their voting rights indefinitely for some felony crimes** or require a pardon from the governor to have their voting rights restored.<sup>6</sup> Some countries restrict individuals with criminal records from entering their country, making it stressful and embarrassing for survivors when traveling. Often, these situations result in survivors being required to explain their past to strangers who have little understanding of trafficking, which can be extremely retraumatizing.

“*After the conviction was on my record, all doors seemed to be closed for me. I lived in a prison. People might say it was in my mind, but it really wasn't. It was reality.*”



Stock photo. Posed by model.



## Quick Facts on the Impact of Criminal Records

### EMPLOYMENT:

- As of 2018, 80 percent of employers run background checks.<sup>7</sup>
- A criminal record reduces job callbacks by approximately 50 percent and significantly limits earning potential.<sup>8</sup>
- As of 2018, there are more than 27,000 licensing/occupational laws that restrict the employment of persons with criminal convictions. Of those, over 12,000 disqualify any individual with any type of felony, and over 6,000 disqualify those with misdemeanors. Roughly 19,000 exclusions are permanent, and over 11,000 are mandatory.<sup>9</sup>
- Recognizing these patterns, by 2021, 37 states and over 150 cities had adopted “Ban the Box” laws or policies, which eliminate criminal history questions from initial job applications.<sup>10</sup>

### MEDICAL CARE:

- Research has shown that those with criminal convictions are discriminated against by healthcare providers.<sup>11</sup>

### IMMIGRATION RELIEF:

- Criminal convictions or arrests can lead to removal or deportation.
- If a survivor is applying for a green card or work visa, a criminal record of any kind can mean a denial.<sup>12</sup>

### FAMILY LAW:

- Criminal convictions commonly factor into “best interest” standards for purposes of child custody and visitation.<sup>13</sup>

### HOUSING:

- Public Housing Authorities, owners of federally assisted public housing, and private landlords have broad discretion, when anti-discrimination laws are not otherwise present, to set their own screening of prospective tenants.<sup>14</sup>

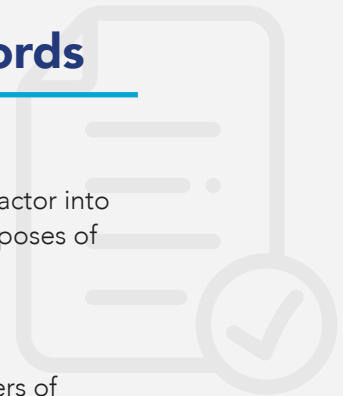
*This can mean policies such as a 99-year “lookback,” no appeals for refusal of tenancy, and flat bans on individuals and their family members.<sup>15</sup>*

### EDUCATION:

- Between 60 percent and 80 percent of private institutions and 55 percent of public institutions require undergraduate applicants to answer criminal history questions as part of the admissions process.
- Forty percent of community colleges also report collecting this information.<sup>16</sup>

### STUDENT LOANS:

- Eligibility for federal aid may be limited for individuals convicted of certain offenses.
- Thousands of students each year choose not to apply or are denied admission due to the mistaken belief that any drug conviction is a disqualifier for federal financial aid.<sup>17</sup>





# History of Criminal Record Relief Statutes for Survivors

## State Level

It wasn't until 2010, a full decade after the Trafficking Victims Protection Act (TVPA) went into effect, that criminal record relief for trafficking survivors began to take form. New York was the first state to enact such legislation.<sup>18</sup> The New York law allowed survivors of trafficking to vacate prostitution and related convictions that were a result of having been trafficked.<sup>19</sup> The legislature recognized that "[e]ven after [survivors] escape from sex trafficking, the[ir] criminal record victimizes them for life. This bill would give victims of human trafficking a desperately needed second chance they deserve."<sup>20</sup>

“It’s a horrible, horrible thing to live with, a secret that’s over your head all the time. You can’t really tell anybody why you aren’t applying for this job or going for that opportunity. I basically ran from this for the next 20 years.”

Following New York’s lead, other states began enacting criminal record relief legislation for trafficking survivors. Today, **all but three remaining states (Alaska, Iowa, and Maine) and the federal government offer some form of criminal record relief specific for survivors of trafficking.** Some states (South Dakota and Missouri) restrict relief to minor victims. While these laws are a good start, the passage of a criminal record relief law alone does not mean a state’s work is complete. Many of these laws need to be strengthened and improved.

## The Need for Data on the Use of Criminal Record Relief Statutes by Trafficking Survivors



Currently, there are no public reporting mechanisms available in states to track how criminal record relief statutes are being used. As states do not collect this data, it has been up to legal advocates and anti-trafficking organizations to keep track of how many survivors have applied for and been granted criminal record relief. In New York, a collaboration among the [Exploitation Intervention Project at The Legal Aid Society of New York](#), [Brooklyn Law School’s Criminal Defense & Advocacy Clinic](#), and a wide range of private pro bono partners estimated that from 2010 to 2019, more than 1,800 convictions had been vacated for 109 individual trafficking survivors in the state. A reporting mechanism built into state laws would be a valuable addition that would make it easier to determine how those laws are working — and not working — and what is needed to change the laws and expand access. Louisiana is the first to add such language to its statute (included below). Though not explicitly included in the law, we recommend that reports tracking the use of criminal record relief for trafficking survivors are made public. Previously introduced legislation in the House of Representatives mandated that each U.S. Attorney submit information to the U.S. Attorney General one year after the enactment of the legislation, to be used by the Government Accountability Office in a report on the effectiveness of the legislation for Congress after a period of three years.

### LOUISIANA:<sup>21</sup>

*The Louisiana District Attorneys Association shall annually submit a report to the legislature, no later than February first, that includes the number of applications for, denials of, and approvals of the certification provided for by this Subsection for the prior year.*



## Federal Level

While trafficking-specific criminal record relief legislation has been introduced in several sessions of Congress, a federal law has not yet been passed that includes a criminal record relief statute for trafficking survivors. The latest proposed legislation, the bipartisan Trafficking Survivors Relief Act, would apply to trafficking survivors with nonviolent federal convictions and convictions that do not involve a child victim.

There are positive measures in this proposal. If enacted, this law would provide eligible survivors the opportunity for full vacatur — the highest level of relief that suggests the person never should have been convicted in the first place. This is particularly important for immigrant survivors, as it nullifies any argument for deporting or denying benefits to undocumented survivors as a consequence of their conviction or arrest for the vacated offense.

Additional components of the proposed bill include a reporting mechanism to track motions for record relief filed under this law and whether or not they were granted, so recommendations can be made for improving federal relief for survivors. The proposal also includes provisions allowing for affirmative defense during initial court proceedings, which would permit survivors to show proof that they are victims and that the charges they are facing are due to their victimization.

However, as proposed, the introduced legislation excludes many survivors who need and deserve relief because the charges it covers drastically differ from the charges survivors are frequently charged with on the federal level. Moving forward, Congress should work with survivors and anti-trafficking groups to draft additional provisions that provide appropriate relief for all trafficking survivors charged with federal crimes.



Stock photo. Posed by model.

## When Laws Fail Survivors

Keyana Marshall is a trafficking survivor. Her story is, in many ways, typical of the thousands of vulnerable young people who are targeted, groomed, manipulated, addicted, dehumanized, and then sold while still not old enough to drive or vote. But hers has an additional layer of horror. In the eyes of the law, Keyana is considered a trafficker herself. She served time in federal prison for conspiracy charges she obtained while being abused in pimp-controlled exploitation.

Keyana and her husband recently moved to Ohio so she could work with a program supporting other survivors of sex trafficking. She is also working on developing her own survivor-led organization called "We Survived." This organization will support survivors and give them resources to navigate many different areas of life. Keyana wants to support survivors' journeys in academia, entrepreneurship, and community re-entry.

In any state Keyana lives in or visits, she is required to register as a sex offender. She feels this has stifled her ability to flourish in the community and limits employment opportunities. "I have been threatened, denied employment, and stigmatized on this sex offender registry. I was exploited, and I couldn't choose who my trafficker exploited. I was charged with conspiracy to commit sex trafficking of children. This forced me onto a sex offender registry three years after I was released from federal custody. I didn't do anything wrong. My abuser forced me to post ads online, pay the phone bills, and get his cars fixed. Those actions were enough to land me in prison. I am still facing many hardships, and I'm still being punished for being exploited," Keyana explains in frustration.



## Methodology:

The information in this report is based on a review of state criminal record relief statutes that explicitly apply to adults who have experienced human trafficking and are contained within the human trafficking section of the state criminal code. States were awarded points based on a detailed rubric that compares each section of the statute at issue to an ideal or preferred version from another state. States that only offer relief to survivors who were arrested as children earn an automatic F grade. Additionally, states with no trafficking-specific criminal record relief statutes also received F grades.

We recognize that human trafficking survivors in some states can and have successfully used other statutes designed to provide criminal record relief to a broader range of individuals who have not experienced trafficking. However, the experience of both survivors and legal practitioners suggests that laws specifically designed to address this population are easier to find, use, and amend, as needed, to make them stronger.

Additionally, the research team prioritized the inclusion of specific, clear language within each criminal record relief statute, rather than having to rely on combining multiple state law statutes. For example, a state that has strong confidentiality language in another, but not directly related, statute, and does not mention confidentiality protections in the trafficking-specific statute, will not get points for confidentiality in this analysis.

### Statutory Interpretation

The rubric includes detailed descriptions of how the statutes were reviewed and interpreted. We recognize that with any legal analysis, there will be differences of opinion about how statutes are interpreted.

### Process

Polaris engaged a North Carolina-based law firm, Moore & Van Allen PLLC, to conduct a review of the existing state statutes and advise on modifications to the 2019 rubric to increase practicality and accuracy. For quality control purposes, each statute received a minimum of two reviews and the team reconciled ranking differences through internal discourse. The complexity of varying state statutes and interpretations of statutory effect render any 50-state survey necessarily imperfect. The goal is to share the hard work of states with model language and highlight areas for improvement based on evolving understandings of survivor needs in seeking criminal records relief. We believe those goals are accomplished with these grades and reflected in our report.

### Model Laws

There is no single state that has a perfect criminal record relief law for trafficking survivors to offer as a model. Instead, we chose sections of laws that correspond to the areas survivors and attorneys say matter most based on their experience. We are acutely aware that what works in one state does not necessarily make sense in another - either politically or because of some very specific context. See [Appendix B](#) for each of the model sections.

### Rubric Explanation

The grades assigned to each state are based on points assigned via an updated rubric that reflects changes in thinking from the 2019 report. Accordingly, the new report cards/grades are not a direct comparison to the prior version.

Below please find an explanation of the key components as well as the sample legislation we used as a model for each concept. The full grading breakdown for each of the sections is included in [Appendix A](#).



## 1 Legal Effect:



This section considers the breadth of relief offered. The highest scores for legal effect are afforded those states that offer full relief.

- ▼ No relief  
States without criminal record relief specifically for trafficking survivors or the statute only applies to juvenile offenders.
- △ Partial relief  
The statute vacates, expunges, sets aside, or seals the criminal record but does not nullify, reverse or void the record in a way that eliminates the adverse effects of the record's existence.
- ▲ Full relief  
Laws that return the survivor to pre-record status. For example, the statute both indicates vacatur on the merits and provides for records destruction in the same proceeding.

### EXAMPLES OF MODEL LEGISLATION ON LEGAL EFFECT:

#### New York:

*"In the case of a motion granted under paragraph (i) of subdivision one of this section, the court must vacate the judgment on the merits because the defendant's participation in the offense was a result of having been a victim of trafficking."*

#### Washington, D.C.:

*"(a) A person convicted of an eligible offense may apply by motion to the Superior Court for the District of Columbia to vacate the judgment of conviction and expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offense if the conduct of the person that resulted in the conviction was a direct result of the person having been a victim of trafficking."*

## 2 Records Protection:



Despite best intentions, survivors frequently report that records they had gone through a legal process to clear still show up in background checks and other situations where these records could be used against them.

Therefore, the rubric takes into account whether laws include language that make it clear these records should be destroyed or otherwise made permanently inaccessible. Points are given accordingly based on whether states had:

- ▼ No record protection language in their statutes.
- △ Some statutory record protection but tend to still allow the records to be accessible by law enforcement, government agencies, or by court order.
- ▲ Full protection in which the record is purged and not accessible by anyone.





## EXAMPLES OF MODEL LEGISLATION ON RECORDS PROTECTION:

### Oklahoma:

*“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 refusal of the applicant to disclose arrest and criminal records information that has been sealed.”*

### Massachusetts:

*“‘Expunge’, ‘expunged’, or ‘expungement’, the permanent erasure or destruction of a record so that the record is no longer accessible to, or maintained by, the court, any criminal justice agencies or any other state agency, municipal agency or county agency. If the record contains information on a person other than the petitioner, it may be maintained with all identifying information of the petitioner permanently obliterated or erased.”*

## 3 Trafficking Nexus:



Trafficking Nexus refers to the degree to which a criminal offense is connected to a survivor’s trafficking experience. Statutes were ranked accordingly based on how restrictive the language is or is not, with more points going to the least restrictive/most accessible language.

- ▼ **Overly restrictive** criminal record relief statutes limits survivors to access relief only if they committed a crime **“while under duress.”** This is commonly understood to apply only to criminal acts committed in response to an immediate threat of death or serious physical harm. However, human trafficking is not defined merely by the threat or presence of force. Rather, trafficking law recognizes that traffickers regularly use psychological means, such as threats, manipulation, and lies, to control their victims.
- ▲ More **moderate** statutes provide criminal record relief but only if a survivor proves that either
  - crimes that occurred were **“as a direct result”** or **“proximately caused”** by the trafficking, which can be difficult for survivors to prove how a crime was caused or resulted from their trafficking victimization or
  - the offense occurred **“while they were a victim”** of trafficking which limits relief to crimes committed while the survivor was actively being trafficked.
  - Both of these more limiting criminal record relief statutes ignore the reality that survivors commonly engage in criminal activity in the aftermath of their trafficking, either as a way to cope with what has happened to them through drug or alcohol use or because they have no way to meet their survival needs after fleeing their trafficker.
- ▲ **Preferable** trafficking nexus language: Requires a survivor to prove the offense was committed **“as a result”** of trafficking, a standard that tends to be easier for survivors to prove and speaks more to their actual experience.



## EXAMPLES OF MODEL LEGISLATION ON TRAFFICKING NEXUS:

### Connecticut:

*"At any time after a judgment of conviction is entered pursuant to section 53a-82, the defendant may apply to the Superior Court to vacate any judgment of conviction on the basis that his or her participation in the offense was a result of having been a victim of conduct of another person that constitutes (1) trafficking in persons under section 53a-192a, or (2) a criminal violation of 18 USC Chapter 77, as amended from time to time."*

### Louisiana:

*"To obtain certification, the applicant has the burden of establishing by a preponderance of the evidence to the prosecuting authority that the offense was committed, in substantial part, as the result of the applicant being a victim of human trafficking in accordance with R.S. 14:46.2."*

## 4 Eligible Offenses:



The nature of trafficking is such that survivors can be forced to commit a wide range of offenses such as trespassing, selling or purchasing drugs, and even violence.

- ▼ Restrictive statutes only provide relief for a small subset of offenses, such as **prostitution or sex-related crimes**. In some cases, they also include certain "**low level**" **enumerated offenses** but they are still very restrictive.
- △ Better statutes include relief for more "**serious crimes**" like violent crimes, felonies, and more, but still may not have all offenses covered.
- ▲ Ideally, the best statutes include that **all offenses are eligible** for relief and therefore, all survivors have the ability to clear their criminal records.

## EXAMPLES OF MODEL LEGISLATION ON ELIGIBLE OFFENSES:

### Wyoming:

*"(a) A victim of human trafficking is not criminally liable for any commercial sex act or other criminal acts committed as a direct result of, or incident to, being a victim of human trafficking in violation of W.S. 6-2-702 through 6-2-707.*

*(c) At any time after the entry of a conviction, the court in which it was entered may vacate the conviction if the defendant's participation in the offense is found to have been the result of having been a victim."*

### Georgia:

*"(a)(1) A defendant convicted of an offense and sentenced as a direct result of the defendant being the victim of an offense of trafficking under Code Section 16-5-46 may petition the court imposing the sentence to vacate such conviction. Such court shall maintain the jurisdiction, power, and authority to vacate such conviction and sentence."*



## 5 Procedural Confidentiality:



Criminal record relief statutes should include provisions designed to protect confidentiality throughout the process. Failure to protect confidentiality defeats the purpose of these laws and puts survivors in danger. Statutes should allow motions to be filed as sealed documents and ensure that documents remain shielded from public disclosure. States were graded based on what type of confidentiality of the petition for relief, or records of the proceedings, included.

- ▼ Some states **do not include any language** on confidentiality of documents.
- △ Some states may indicate there is a **process to request** that records of the petition and any record of the proceedings be placed under seal.
- ▲ Ideally, states would **automatically seal** all motions and petition papers connected to the survivor applying for criminal record relief.

### EXAMPLES OF MODEL LEGISLATION ON PROCEDURAL CONFIDENTIALITY:

#### New Jersey:

*"Applications made to the Superior Court under this section and all associated supporting documents filed with the applications shall remain under seal and kept confidential, and shall not be disseminated or disclosed, in whole or in part, except to another court, or a law enforcement or correctional agency as set forth in this subparagraph."*

#### Massachusetts:

*"petition for an expungement, any records related to a petition for an expungement, records related to judicial proceedings required to hear the petition for an expungement or an order of expungement pursuant to section 100F, section 100G, section 100H or section 100K shall not be a public record. Any information obtained by a county, municipal or state employee acting in their official capacity and related to a petition for or order for an expungement shall not be a public record as defined by clause twenty-sixth of section 7 of chapter 4 and shall be confidential information. Within 60 days of ordering an expungement pursuant to section 100F, section 100G, section 100H or section 100K the court and the commissioner shall expunge all records of the petition, the order and any related proceedings within their care, custody or control."*



## 6 Time Limitations and Wait Times:



Some states have statutes of limitations or a wait time that restrict survivors' ability to access criminal record relief. These limitations serve no practical purpose. In many cases these limitations cause actual harm, either forcing survivors to start the cumbersome process of criminal record relief before they are emotionally ready, or prolonging the time in which they live with the barrier of a criminal record.

- ▼ Some restrictive statutes have an **explicit time limitation** that runs from a survivor's end of exploitation to when a survivor can apply for relief, and after that time lapses, survivors cannot apply for relief. Additionally, some statutes make a survivor **wait a specific amount of time** before they can apply for relief.
- △ A better statute would provide some leniency for when a survivor can file such as a "**reasonable period**" after trafficking.
- ▲ However, an ideal criminal record relief statute would have **no time limits or wait times** at all for survivors.

### EXAMPLES OF MODEL LEGISLATION ON TIME LIMITATIONS AND WAIT TIMES:

#### Arkansas:

*"(2) A uniform petition under this section may be filed at any time and may be filed for a conviction imposed at any time."*

#### Colorado:

*"At any time after conviction, a defendant may file a motion in the case in which any conviction records exist pertaining to the defendant's conviction for any misdemeanor offense or municipal code or ordinance violation, excluding any offense of a crime as defined in section 24-4.1-302 (1)."*

## 7 Hearing Requirements:



Whether or not a survivor must appear before a court at any point in this process can make a significant difference in whether relief is accessible in practice as well as in theory. For example, survivors may have safety or financial concerns that make it difficult for them to attend hearings.

- ▼ The most restrictive statutes require a **hearing be held**.
- △ Some statutes are either **silent** on the issue of whether a hearing is required or the **hearing is conditional** such as at the **discretion of the court** or **required only if certain state authorities object**.
- ▲ The strongest statutes would **explicitly not have a hearing required**. Unfortunately, no state has this clause and therefore the examples given below are of states that offer the best example currently which is a hearing being conditional.



#### EXAMPLES OF MODEL LEGISLATION ON HEARING REQUIREMENTS:

##### Maryland:

*“(e) The court may grant a motion filed under this section without a hearing if:*

- (1) the State’s Attorney consents to the motion;*
- (2) no objection to the relief requested has been filed by a victim or victim’s representative; and*
- (3) at least 60 days have elapsed since notice and service under subsection (c) of this section.”*

##### California:

*“(c) The petition for relief and supporting documentation shall be served on the state or local prosecutorial agency that obtained the conviction for which vacatur is sought or with jurisdiction over charging decisions with regard to the arrest. The state or local prosecutorial agency shall have 45 days from the date of receipt of service to respond to the petition for relief.*

*(d) If opposition to the petition is not filed by the applicable state or local prosecutorial agency, the court shall deem the petition unopposed and may grant the petition.”*

## 8

### Judicial Discretion:

Judicial Discretion refers to the ability of the court to grant relief when a survivor satisfies the statutory requirements.



- ▼ The lowest rankings were given when the court has **no authority** to grant relief for trafficking survivors which occurs when there is no criminal record relief statute specific for trafficking survivors or the statute is only applicable to juvenile offenders.
- △ Some statutes are **silent** on this issue and other statutes **“may”** grant a petition for relief upon making necessary findings.
- ▲ An ideal statute includes language where the court **“shall”** or **“must”** order relief if the survivor meets the requirements set forth in the statute.

#### EXAMPLES OF MODEL LEGISLATION ON JUDICIAL DISCRETION:

##### Arizona:

*“The court shall grant the application and vacate the conviction if the court finds by clear and convincing evidence that the person’s participation in the offense was a direct result of being a victim of sex trafficking pursuant to section 13-1307.”*

##### North Carolina:

*“(c) If the court grants a motion under this section, the court must vacate the conviction and may take such additional action as is appropriate in the circumstances.”*



## 9 Burden of Proof:



Burden of Proof refers to the standard that a party seeking to prove a fact in court must meet in order to prevail on their claim. In the case of criminal record relief statutes, this refers to the level of proof that a survivor must provide in order to show that they were a victim of trafficking at the time of the criminal offense at issue and, as a result, are eligible for relief under the law. Points were awarded with a preference for the least restrictive statutes.

- ▼ The most restrictive statutes require a showing of “**clear and convincing**” evidence, which means that a survivor must prove that it is highly probable that their claim is true.
- △ Some statutes are silent as to the burden of proof, which may result in inconsistencies with regard to what is required of a survivor from case to case or within different jurisdictions in the same state.
- ▲ The ideal statute utilizes a “**preponderance of evidence**” standard, which means that a survivor must prove that it is more likely than not that they were a victim of trafficking at the time they were arrested for a criminal offense.

### EXAMPLES OF MODEL LEGISLATION ON BURDEN OF PROOF:

#### Florida:

*“Determination of the petition under this section should be by a preponderance of the evidence.”*

#### Vermont:

*“(d)(1) The court shall grant the motion if it finds by a preponderance of the evidence that:*

*A. the moving party was convicted of a qualifying crime; and*

*B. the conviction was obtained as a result of the moving party’s having been a victim of human trafficking.”*

## 10 Arrest and Adjudication Relief:



In many jurisdictions, arrests that do not result in a formal adjudication of guilt still appear on an individual’s record when members of the public or law enforcement do a background check. The same holds true for juvenile adjudications and non-prosecuted cases. Compounding this issue is that most criminal record relief statutes only cover convictions. This leaves many survivors with arrest records that impede their lives and limit both their housing and career options. An ideal statute **explicitly includes arrests, non-prosecuted cases, adjudications, and other records** as eligible to be cleared if shown to be a result of a survivor’s victimization.

### EXAMPLES OF MODEL LEGISLATION ON ARREST AND ADJUDICATION RELIEF:

#### Pennsylvania:

*“(g) Conviction vacated.--If the motion under subsection (d) is granted, the court shall vacate the conviction, strike the adjudication of guilt and order the expungement of the record of the criminal proceedings. The court shall issue an order to expunge all records and files related to the moving party’s arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings and probation for the offense.”*



### New Hampshire:

*“(a) This paragraph shall apply to:*

*(1) An individual convicted for an offense which was committed as a direct result of being trafficked;*

*(2) An individual who was under 18 years of age at the time of the offense, who was adjudicated as delinquent for an offense which was committed as a direct result of being trafficked; or*

*(3) An individual who entered into a diversion agreement in lieu of further criminal proceedings for an offense which was committed as a direct result of being trafficked.”*

## 11 Additional Restrictions:



This is the catch-all section for the range of additional barriers states have come up with which prevent survivors from gaining relief. Because they are specific to only a few states, if these presented themselves in the statutes we deducted a lump sum of five points. For more explanation of these barriers, please see the [Hall of Shame](#) section. Some examples include additional barriers that:

- Require survivors have no other charges or a criminal record in that state or in another state.
- Require survivors cooperate with law enforcement by forcing them to identify or help in investigation or prosecution of their trafficker.
- Require survivors explain why trafficking facts or affirmative defense were not used in original court proceedings.
- Require survivors serve sentences imposed in full and/or pay restitution and fines ordered for convictions before a survivor can apply for relief.
- Limit the number of petitions of relief a survivor can file.
- Allow the court to take the relationship between a trafficker and survivor and/or rehabilitation efforts of survivors into account when making a decision on whether to grant a survivor criminal record relief.
- Requires survivors to notify victims of the original offense when applying for relief.
- Explicitly apply only to sex trafficking survivors which leaves out labor trafficking survivors.



## 12 Extra Points:



In this section, states were awarded extra points for additions to their statutes that make the process of relief easier, more accessible, and helpful for survivors. These include:

- **Fees and fines related to original conviction or sentence are returned to survivors once they receive criminal record relief.**

### EXAMPLES OF MODEL LEGISLATION ON RETURN OF FEES AND FINES:

#### Georgia:

*“(1) For any sentence vacated pursuant to this Code section, the court vacating such sentence shall include in the order to vacate an order for the return of any fines and fees paid by the defendant under such sentence in the amount paid by the defendant; (2) The Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the return to the defendant of fines and fees paid by the defendant.”*

#### Virginia:

*“E. If the court enters a writ of vacatur, the petitioner shall be entitled to a refund of all fines, costs, forfeitures, and penalties paid in relation to the qualifying offense that was vacated. If the clerk of the court where the conviction was entered is in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, the petitioner shall be entitled to a refund of such amount. If the clerk of the court where the conviction was entered is no longer in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, a refund shall be provided only upon a showing by the petitioner of the amount of fines, costs, forfeitures, and penalties paid.”*

- **Explicitly states survivors will be not charged any fees to apply for criminal record relief.**

### EXAMPLES OF MODEL LEGISLATION ON NOT CHARGING FOR RELIEF:

#### Louisiana:

*“(5) An applicant for the expungement of a record of offense who was a victim of human trafficking, in accordance with R.S. 14:46.2, shall not be required to pay any fees relative to the application for expungement to the clerk of court, the Louisiana Bureau of Criminal Identification and Information, the sheriff, the district attorney, or any other agency.”*

#### Colorado:

*A defendant moving to have his or her criminal records sealed pursuant to this section is not required to pay a processing fee.*





- **Official documentation provided when applying for relief creates a presumption of victim status, and the documentation is not required to apply for relief.**

#### **EXAMPLES OF MODEL LEGISLATION ON PRESUMPTION OF VICTIM STATUS:**

##### **New Hampshire:**

*“(d) The petitioner shall not be required to provide any official documentation indicating that he or she was a victim of human trafficking at the time of the offense. However, if such documentation is provided, it shall be prima facie evidence that the petitioner’s participation in the offense was a direct result of being trafficked. In this subparagraph, “ official documentation ” means:*

- (1) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the petitioner was a victim of human trafficking; or*
- (2) An affidavit or sworn testimony from a member of the clergy, a medical professional, a trained professional staff member of a victim services organization, or other professional from whom the petitioner has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of human trafficking.”*

##### **Georgia:**

*“(D) May include documentation of a defendant’s status as a victim of an offense of trafficking under Code Section 16-5-46 at the time of the offense; provided, however, that official documentation shall not be required to obtain relief under this Code section. Such documentation shall create a rebuttable presumption that the defendant was a victim of trafficking under Code Section 16-5-46. As used in this subparagraph, the term ‘official documentation’ includes, but is not limited to, the following:*

- (i) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding showing that the defendant was a victim of trafficking under Code Section 16-5-46;*
- (ii) An affidavit, a letter, or sworn testimony from a member of the clergy, medical professional, member of a victim services organization, or certified, licensed, or registered professional from whom the defendant has sought assistance, counseling, or legal counsel related to his or her victimization; or*
- (iii) Any other evidence that the court determines is of sufficient credibility or probative value.”*

- **When hearing is required, survivors can appear by alternate methods (e.g. telephone, written statements, and/or an attorney).**

#### **EXAMPLES OF MODEL LEGISLATION ON ALTERNATIVE HEARING METHODS:**

##### **Florida:**

*(b) The petitioner or the petitioner’s attorney may appear at any hearing under this section telephonically, via video conference, or by other electronic means.*

##### **Georgia:**

*“For purposes of considering a petition provided for under subsection (a) of this Code section, testimony from the defendant, petitioner, expert witness, or any other party may be taken by the court by remote electronic means.”*



## Additional Recommendations

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Enacting new legislation or amending existing laws is the first and most important step toward creating a consistent and fair system that supports survivors of human trafficking as they seek to clear criminal records. But the work of supporting survivors does not end with the passage of a law. There must, for example, be consistent and reasonable implementing regulations, data collection, and financial resources available so that we can learn what works and make additional improvements and corrections along the way.

### 1 Institute Comprehensive Data Collection Processes

While the anti-trafficking field has made progress on data collection, there is still almost no information available on the utilization of state criminal record relief laws for trafficking survivors. Understanding how many survivors have attempted to utilize the law, how many were successful in doing so, and what kinds of convictions were most likely to be cleared is the first step towards addressing the gaps and barriers that still exist.

“*[The expungement process was] not really set up to help victims. There are protocols, things you have to do that don’t make a lot of sense for trafficking victims, and there is no support or anything to help you heal from the trauma.*”

### 2 Ensure Funding for Criminal Record Relief Legal Support

Most legal proceedings have a cost attached, and criminal record relief is no exception. One of the most significant costs is legal fees, as the process is often extremely complicated for a non-lawyer to manage. If survivors can’t afford to pay for lawyers, they often just give up — or don’t even get started — in the process of trying to clear their criminal records. It is important that states and local governments allocate resources to provide legal services for survivors. This can include providing training on criminal record relief, as well as the costs of the legal representation survivors desperately need.

While there are nonprofit organizations and attorneys who volunteer their services, there is nowhere near enough capacity to meet the need. Those who assist with criminal record relief stress that federal, state, and local funds and grants should be directed toward some of the expenses associated with this work so that more attorneys would be available to do it.

In 2018, the Office for Victims of Crime (OVC) at the Department of Justice restricted funding for legal services to represent trafficking victims trying to clear criminal records.<sup>22</sup> While this restriction has been lifted, it is important that Congress explicitly protects the ability for grants to be used for criminal record relief for survivors. Language to this effect was included in the federal criminal record relief bill introduced in the U.S. House in August 2022.



Stock photo. Posed by model.

Kia was 15 and trying to survive in foster care when she was first trafficked. She grew up in a tough environment and often found herself in physical altercations with others while trying to protect herself. As a result, Kia developed a juvenile record, which expanded to a string of DUI and prostitution-related charges connected to her trafficking situation as an adult. The transient nature of Kia's trafficking situation made it impossible for her to keep up with paperwork and information about the charges she was facing and any upcoming court appearances. Several years after leaving her trafficking situation, Kia often works multiple jobs to support herself but continues to have her wages garnished to repay fees and fines as a result of charges she incurred while in her trafficking situation. The financial burden as a result of her criminal record has made it difficult for Kia to reach out for legal assistance in clearing her record, as most of the attorneys she has encountered have charged for initial consultations or services. Kia's criminal record has hindered her career aspirations by preventing her from pursuing roles where she can use her expertise and experience as a survivor to work directly with at-risk youth and other survivors of trafficking.



### 3 Design Trauma-Informed Implementing Regulations

“You really need help and support to get through this process. I feel bad for anyone else who goes through what I had to go through to try to get it cleared up. The ultimate goal is you just want to live as normal a life as possible. Then you are hit with restriction after restriction or having to tell people what happened to you over and over again, and you don’t necessarily want to do that. It makes you have to live in the shame, over and over again. There is a sense of freedom from having a choice on whether or not to tell others your life experiences. Now, I finally feel free.”

Even the strongest laws on paper can become the least effective in practice if the implementing regulations — the logistical and procedural steps — are so onerous that survivors ultimately choose not to pursue relief. **Of the 25 percent of NSN survey respondents who were successful in clearing their convictions, most reported that it was a long, painful, confusing, and expensive process.** NSN survivors have reported it was retraumatizing to have to constantly retell their experience, and that while the outcome of getting their record cleared was achieved, they felt that the exhaustive process it took to get there greatly impacted their journey to recovery.<sup>23</sup>

“They were digging up really traumatic information, trying to determine if I was lying or not. I’m grateful that the state has a process now ... but it’s a horrible process.”



Stock photo. Posed by model.

For example, in some states, even if survivors are granted relief, they must pay for each government agency to destroy or seal their records. These costs can add up and become a significant financial burden on survivors who are trying to regain stability in their lives. Some may not have the resources. Another logistical concern for survivors is the potential long distance they must travel for hearings or to comply with mundane filing procedures. As many courts found during the COVID-19 pandemic, it is possible for normal court proceedings to happen remotely. Some states have begun allowing for remote electronic methods, such as video, phone, etc., to be used so survivors are able to get relief without having to make costly trips or return to places they may not feel safe. This does not mean that every state has to execute every step exactly the same way, but rather that states should work with survivor leaders and legislators to minimize the barriers and potential retraumatization for those seeking relief in their jurisdiction.

One way to make the process less traumatizing for survivors is for NGOs and legal aid offices to engage survivor leaders as case managers, peer mentors, and advocates to help guide survivors through the criminal record relief process. This interdisciplinary approach to lawyering is transformative. However, this would require funding commitments to NGOs from federal, state, and local governments. It is also important that lawyers and service providers working with foreign nationals for criminal record relief collaborate and consult with immigration specialists due to unique risks that exist for foreign nationals with criminal records.



“Every time I sent [the paperwork] in, I got it returned. It was frustrating. I was finally just going to forget it and say to myself, ‘I just won’t ever get a job doing these things because everyone is going to judge me.’”



## Mugshot Websites

Many survivors seeking to clear criminal records are doing so for practical as well as personal reasons. Unscrupulous businesses prey on people with criminal-legal records, mining law enforcement databases for photos (mugshots) taken upon arrest. Websites like mugshots.com and mugshotsonline.com pull data from public records such as police, sheriff, state, and federal records for mugshots from both arrests and convictions. These websites then charge people to remove their mugshots from the site in order to gain hefty profits. For example, mugshots.com, using a third-party website, unpublisharrest.com, charged \$64,000 in fees to about 175 people in California in two years and about \$2 million from nearly 6,000 people nationwide.<sup>24</sup> Heartbreakingly, survivors have paid websites to remove a photo only to see it appear on another.

Even legitimate or well-meaning companies that provide background checks on prospective employees don’t always update their records on a regular basis. Therefore, even after an arrest or conviction is cleared, survivors report that it may still come up in background checks. This can be due to lags in the system as well as data entry errors.<sup>25</sup>

States like Florida and Maryland have enacted laws that require websites to remove the mugshots of individuals whose charges were dismissed, whose arrests did not lead to convictions, and whose convictions were vacated.<sup>26-27</sup> Even more effective are state laws such as those in Louisiana, Utah, New York, Oregon, and several others restricting law enforcement from putting mugshots online at all, preventing third-party websites from accessing them in the first place.<sup>28</sup>



## 4 Allocate State and Local Resources for Outreach and Awareness for Survivors

“It was excruciating; I felt let down by lawmakers, but there was just nobody to reach out to.”

While the necessary first step, of course, is enacting strong laws or amending weak ones, those laws will make little difference without a concerted effort to inform the intended beneficiaries of their existence. According to the 2016 NSN survey<sup>29</sup>, many survivors who did not go through the criminal record relief process either did not know about pathways for relief or, if they knew they existed, did not know how to start the process. Allocating resources for targeted outreach and awareness campaigns — for example, outreach to local legal and social service providers, community-based organizations, and government agencies working on criminal record relief — would help ensure the legislation is effective.



## Hall of Shame

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All survivors of trafficking should have access to the same rights and support. In reality though, the analysis found that 21 states have added elements to their laws that restrict relief to certain kinds of victims - those who have the fewest barriers of access. For example, some states restrict relief to sex trafficking survivors - and completely leave out labor trafficking survivors, while other states require that trafficking survivors know that they were being trafficked and are prepared to testify against their traffickers at the moment they are no longer entangled in the abusive conditions. States that contain elements such as these lost five points per element.

Examples are listed below:

### **Survivors have no other charges or a criminal record in that state or in another state:**

In several states, including Georgia, Oklahoma, Tennessee, and Washington, survivors cannot clear their records of the charges they incurred while being trafficked if they have any other charges pending, a separate criminal record in the state, or are in the process of trying to clear records in another state. Many survivors have a long history of arrests and convictions connected to their victimization. In fact, it's these conditions that can make them more vulnerable to sex and labor traffickers in the first place. States should eliminate these restrictions and educate themselves on the totality of survivors' circumstances and experiences. These additional restrictions function as discriminatory barriers that delay relief that a survivor is entitled to under the law.

**Survivors cooperate with law enforcement by forcing them to cooperate in the investigation and prosecution of their trafficker:** In some states, such as Idaho and Texas, survivors have to cooperate with law enforcement and even identify their trafficker in court in order to be eligible for relief. This requirement puts survivors in danger by forcing them into a situation that causes further trauma and endangers them. Survivors may not have reported their trafficker to law enforcement for any number of logical reasons, to include, real safety concerns, lack of trust of law enforcement, and a lack of faith in the criminal-legal system to keep them safe or hold the trafficker accountable.

**Survivors are required to explain details of trafficking or why an affirmative defense was not raised in original court proceedings:** An affirmative defense allows a survivor facing criminal charges to raise a defense negating criminal liability because they are a victim of trafficking. Some states, such as Idaho, have used the presence of affirmative defense to lessen or eliminate the criminal record relief offered in the state. In Idaho, if affirmative defense of coercion and being a trafficking survivor is brought up at trial and the survivor is still convicted, then they are not eligible later for criminal record relief.

Illinois, Montana, North Carolina, and Wisconsin have limited access to criminal record relief by requiring a survivor applying for relief to explain why they did not raise an affirmative defense during their criminal proceedings. This does not recognize that many survivors do not see themselves as trafficking victims until some time long after they are free from that abuse. This places blame on survivors for not raising a defense that they may not have been aware of and unreasonably requires a survivor to later explain complex legal procedures and try to recall their state of trauma when later applying for criminal record relief from that conviction.

**Survivors have to serve the full sentence imposed and/or pay restitution or fines ordered for convictions before applying for relief:** Criminal record relief acknowledges that traffickers utilize force, fraud, and coercion to compel survivors to engage in certain behaviors and activities, including criminal activity, and that survivors should not be held accountable for what they



were forced into doing by their trafficker. To make survivors complete all conditions tied to the original sentence and/or pay full restitution stands in contrast with the acknowledgement that the conviction should not have been upheld in the first place.

States with these requirements are District of Columbia, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee, Texas, and Washington.

**Limits the number of offenses eligible for relief:** Michigan is the only state with this restriction. Michigan restricts the total number of convictions that can be set aside for an assaultive-crime to no more than two during the survivor's lifetime. Michigan also restricts the amount of convictions a survivor can have set aside depending on the length of sentence imposed.

**Allows court to consider the dynamics of the relationship between trafficker and survivor and any rehabilitation efforts:** Some states allow courts to weigh into their decision on whether the survivor "deserves" criminal record relief by considering factors like rehabilitation efforts - such as whether the victim sought services for victims of trafficking - the relationship dynamics the survivor had with their trafficker, etc. This puts the onus of responsibility and judgment on the survivor even though the original conviction was tied to their own victimization. Survivors already face stigma and judgment based on their victimization and criminal records, and the courts should recognize that these arrests, adjudications, convictions, and other records were not the fault of the survivor but a product of the victimization they experienced. To attempt to evaluate a survivor's rehabilitation or the relationship they had with their trafficker sends the message that the survivor is in some way responsible for the abuse they endured. States with statutes like this, including Maryland and Nevada, should consider amending and removing these types of non-trauma informed restrictive requirements.

**Requires survivors to notify victims when applying for relief:** Several states; Connecticut, Kentucky, Maryland, and New Jersey, require a survivor to notify any named victims of the original offense before applying for relief. In some cases, the victims of the original offense are able to submit impact statements that may affect the ability of the survivor to receive criminal record relief. Notifying victims and allowing them to submit a statement could put a survivor who has exited trafficking at risk. This also places blame on the survivor for an offense that occurred only due to their own victimization.

**Explicitly applies only to sex trafficking survivors:** In several states, the statutes are only for sex trafficking survivors and completely leave out the experience and victimization of labor trafficking survivors. Arizona, Oregon, Nebraska, and Virginia record relief statutes are explicitly only for "sex trafficking victims," although offenses resulting from labor trafficking are just as prevalent. A recent statute in New York has moved to include labor trafficking survivors as qualifying for relief, which is movement in the right direction since it makes it clear to labor trafficking survivors and those assisting them with record relief that their experiences are understood and they may be eligible for relief.

**All State Report Cards can be found at [polarisproject.org/criminal-record-relief-report](https://polarisproject.org/criminal-record-relief-report).**

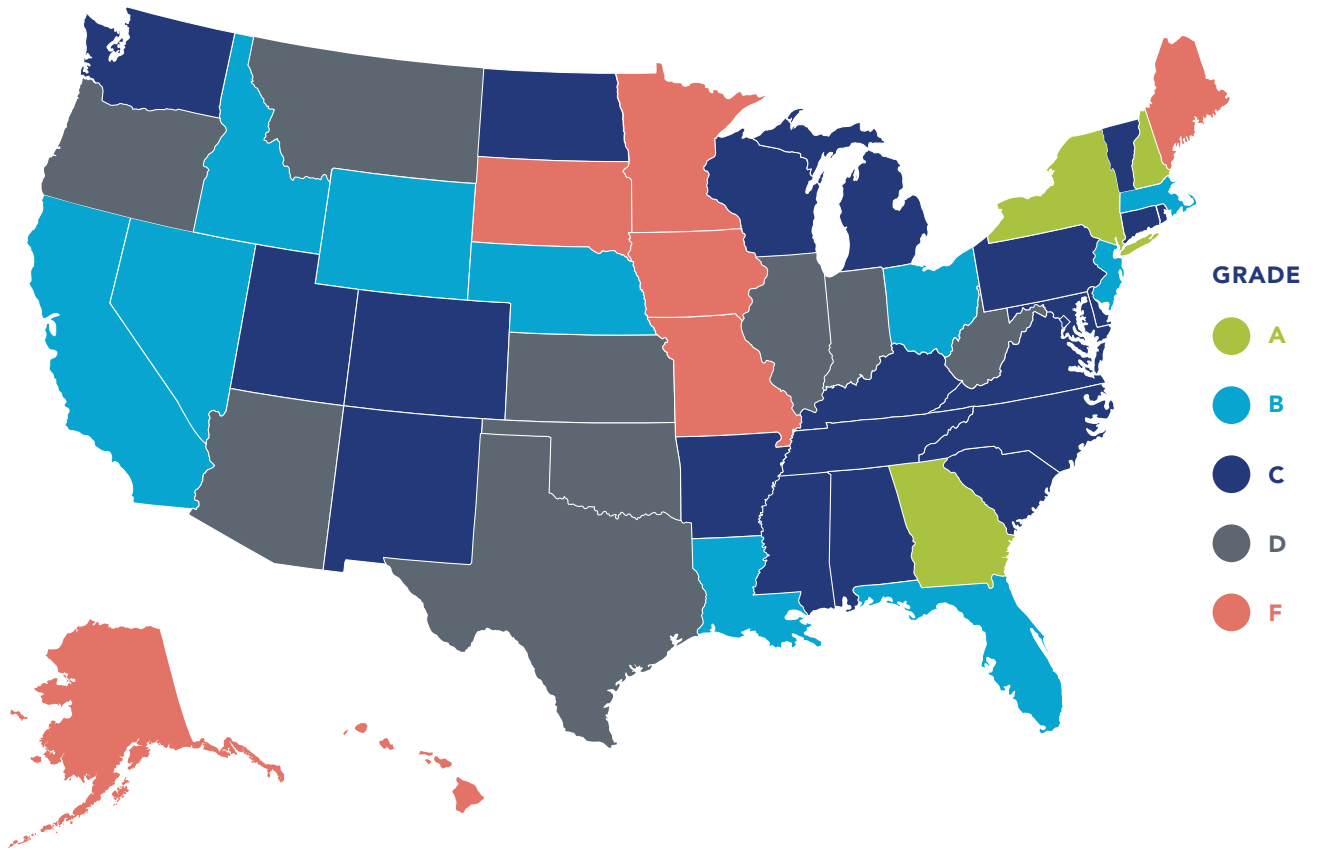


If you are a survivor of human trafficking, member of a state legislature, journalist, or anyone wanting to learn more about criminal record relief or efforts to improve individual state statutes, please email [policy@polarisproject.org](mailto:policy@polarisproject.org).





# Breakdown on State Grades



**A** Georgia  
New Hampshire  
New York

**B** California Louisiana Nevada Ohio  
Florida Massachusetts New Jersey Wyoming  
Idaho Nebraska

**C** Alabama Delaware New Mexico Rhode Island Vermont  
Arkansas Kentucky North Carolina South Carolina Virginia  
Colorado Maryland North Dakota Tennessee Washington  
Connecticut Michigan Pennsylvania Utah Wisconsin  
District of Columbia Mississippi

**D** Arizona Kansas Oregon  
Illinois Montana Texas  
Indiana Oklahoma West Virginia

**F\*** Alaska Maine Missouri  
Hawaii Minnesota South Dakota  
Iowa

\*or no statute specifically for adult trafficking survivors



## APPENDIX A:

# Rubric with Point Breakdown of Grading for Updated Criminal Record Relief Statutes

Points values were assigned to states based on the rubric below, which weighs elements of each statute against an ideal or preferred version.

**Guidelines:** Grades and rankings are determined by comparing elements of existing criminal record relief statutes against an ideal statute, as defined by Polaris and lawyers with expertise on criminal record relief for trafficking survivors. This project looks solely at criminal record relief statutes specifically intended for victims of human trafficking arrested or prosecuted as adults. Accordingly, states that only offer relief to survivors with arrests from when they were juveniles received an F grade. Additionally, the research team prioritized the inclusion of specific and clear language within each criminal record relief statute, rather than having to rely on combining multiple state law statutes.

### Legal Effect



- 0** No statute providing criminal records relief for trafficking survivors, or the statute only applies to juveniles

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- 10** Partial relief: Statutory relief either vacates, expunges, sets aside or seals the criminal record but does not serve to nullify, reverse, or void the record in a way that eliminates any adverse effect of the record's existence

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- 20** Full relief: Statutory relief returns the petitioner to the pre-record status. For example, the statute both indicates vacatur on the merits and provides for records destruction in the same proceeding

### Records Protection



- 0** Statutes are silent as to permitted disclosure of records upon grant of relief

---

- 5** Records are not publicly accessible, but may be made available to law enforcement, certain government agencies, or pursuant to a court order

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- 10** Records are destroyed, purged, or otherwise rendered permanently irretrievable

### Trafficking Nexus



- 0** Survivor must prove that offenses were committed "while under duress"

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- 2** Survivor must prove that their participation in an offense was "proximately caused by" or "as a direct result of" being trafficked

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- 5** Survivor must prove that offenses were committed "while they were a victim" of trafficking

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- 10** Survivor must prove that crimes were committed "as a result" of the trafficking



### Time Limitations and Wait Times



- 0 Statute explicitly prescribes a period of limitation for the filing of a petition for relief, either requiring a survivor to file within a certain period of time following a specified event, or to wait a certain amount of time before filing a petition for relief
- 2 Statute provides leniency regarding timing to file a petition for relief (e.g., allowing survivors a “reasonable time” after trafficking has ended)
- 5 Statute provides no time limit, restrictions or wait times

### Procedural Confidentiality



- 0 Statute is silent as to the confidentiality of the petition for relief or records of the proceedings
- 2 Statute establishes a process for requesting that the petition and any record of the proceedings be placed under seal
- 5 Statute includes a mechanism that automatically places the petition and any record of the proceedings under seal

### Offenses Covered



- 0 No offenses are eligible for relief
- 5 Only prostitution-related offenses and certain enumerated low level offenses are eligible for relief
- 15 Relief is generally available for more “serious crimes” i.e. violent crimes, sex crimes, and serious felonies
- 25 Any offense is eligible for relief

### Judicial Discretion



- 0 Court has no authority to grant relief
- 2 Statute is silent on the issue of judicial discretion, or the statute provides that the court “may” grant a petition for relief upon making the necessary findings
- 5 Statute provides that the court “shall” order relief if petitioner meets certain statutory requirements



### Hearing Requirement



- 0 Statute requires a hearing on any petition for relief

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- 5 Statute is silent on the issue of whether a hearing is required, or the statute contains a conditional hearing requirement (e.g., a hearing is required at the discretion of the court, or upon the objection of certain state authorities)

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- 10 Statute explicitly states that a hearing is not required

### Burden of Proof



- 0 Statute requires a petitioner to demonstrate that they are entitled to relief "by clear and convincing" evidence

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- 2 Statute silent as to burden of proof

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- 5 Statute explicitly states that the survivor need only demonstrate that they are entitled to relief by "a preponderance of the evidence," or some similar lower standard

### Arrest and Adjudication Relief



- 0 No statute providing criminal records relief for trafficking survivors

---

- 2 Statute indicates it applies only to convictions, adjudications, or other formal declarations of guilt

---

- 5 Statute explicitly includes arrests, non-prosecuted cases, adjudications, and/or other records (e.g., incident reports, photographs, fingerprints, disposition, or other information related to an arrest event)

### Additional Restrictions



- 5 Statute requires absence of other charges or absence of criminal records in or out of state

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- 5 Statute has a requirement related to the identification, investigation or prosecution of the trafficker, or requires an explanation of why trafficking facts or affirmative defense were not asserted upon charge for the record for which the survivor now seeks relief

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- 5 Statute requires satisfaction of sentence imposed, or restitution or fines ordered, for conviction(s) from which the survivor is now seeking relief or from prior court involvement before accessing relief

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- 5 Statute limits the number of contemporaneous petitions for relief

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- 5 Statute allows for courts to take the relationship between trafficker and survivor and/or rehabilitation efforts of the survivor into account when making a decision



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**-5** Statute requires survivor petitioning for relief to notify victims of the original offense

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**-5** Statute confines relief to “sex trafficking victims” (it doesn’t state that it applies to human trafficking victims or applies to “sex and labor trafficking victims”)

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**Extra Points**



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**+5** Statute calls for any fees or fines related to the original conviction or sentence to be returned to the survivor once relief is granted

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**+5** Statute explicitly requires that survivors not be charged any fees to apply for relief

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**+5** Statute allows for a presumption of victim status when official documentation is given. This documentation is not required and is available through governmental records or affidavits from service providers and other means

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**+5** Survivor may appear at a hearing by alternate methods (e.g., telephone, video, written statements, attorney substitute)



## APPENDIX B:

# Model Legislative Language Examples from States



## Legal Effect

### New York:

*"In the case of a motion granted under paragraph (i) of subdivision one of this section, the court must vacate the judgment on the merits because the defendant's participation in the offense was a result of having been a victim of trafficking."*

### Washington, D.C.:

*"(a) A person convicted of an eligible offense may apply by motion to the Superior Court for the District of Columbia to vacate the judgment of conviction and expunge all records identifying the movant as having been arrested, prosecuted, or convicted of the offense if the conduct of the person that resulted in the conviction was a direct result of the person having been a victim of trafficking."*



## Records Protections

### Oklahoma:

*"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 refusal of the applicant to disclose arrest and criminal records information that has been sealed."*

### Massachusetts:

*"'Expunge', 'expunged', or 'expungement', the permanent erasure or destruction of a record so that the record is no longer accessible to, or maintained by, the court, any criminal justice agencies or any other state agency, municipal agency or county agency. If the record contains information on a person other than the petitioner, it may be maintained with all identifying information of the petitioner permanently obliterated or erased."*

## ↔ Trafficking Nexus

### Connecticut:

*"At any time after a judgment of conviction is entered pursuant to section 53a-82, the defendant may apply to the Superior Court to vacate any judgment of conviction on the basis that his or her participation in the offense was a result of having been a victim of conduct of another person that constitutes (1) trafficking in persons under section 53a-192a, or (2) a criminal violation of 18 USC Chapter 77, as amended from time to time."*

### Louisiana:

*"To obtain certification, the applicant has the burden of establishing by a preponderance of the evidence to the prosecuting authority that the offense was committed, in substantial part, as the result of the applicant being a victim of human trafficking in accordance with R.S. 14:46.2."*



## Eligible Offenses

### Wyoming:

*“(a) A victim of human trafficking is not criminally liable for any commercial sex act or other criminal acts committed as a direct result of, or incident to, being a victim of human trafficking in violation of W.S. 6-2-702 through 6-2-707.*

*(c) At any time after the entry of a conviction, the court in which it was entered may vacate the conviction if the defendant’s participation in the offense is found to have been the result of having been a victim.”*

### Georgia:

*“(a)(1) A defendant convicted of an offense and sentenced as a direct result of the defendant being the victim of an offense of trafficking under Code Section 16-5-46 may petition the court imposing the sentence to vacate such conviction. Such court shall maintain the jurisdiction, power, and authority to vacate such conviction and sentence.”*



## Procedural Confidentiality

### New Jersey:

*“Applications made to the Superior Court under this section and all associated supporting documents filed with the applications shall remain under seal and kept confidential, and shall not be disseminated or disclosed, in whole or in part, except to another court, or a law enforcement or correctional agency as set forth in this subparagraph.”*

### Massachusetts:

*“Petition for an expungement, any records related to a petition for an expungement, records related to judicial proceedings required to hear the petition for an expungement or an order of expungement pursuant to section 100F, section 100G, section 100H or section 100K shall not be a public record. Any information obtained by a county, municipal or state employee acting in their official capacity and related to a petition for or order for an expungement shall not be a public record as defined by clause twenty-sixth of section 7 of chapter 4 and shall be confidential information. Within 60 days of ordering an expungement pursuant to section 100F, section 100G, section 100H or section 100K the court and the commissioner shall expunge all records of the petition, the order and any related proceedings within their care, custody or control.”*



## Time Limitations and Wait Times

### Arkansas:

*“(2) A uniform petition under this section may be filed at any time and may be filed for a conviction imposed at any time.”*

### Colorado:

*“At any time after conviction, a defendant may file a motion in the case in which any conviction records exist pertaining to the defendant’s conviction for any misdemeanor offense or municipal code or ordinance violation, excluding any offense of a crime as defined in section 24-4.1-302 (1).”*



## Hearing Requirements

### Maryland:

"(e) The court may grant a motion filed under this section without a hearing if:

- (1) the State's Attorney consents to the motion;
- (2) no objection to the relief requested has been filed by a victim or victim's representative; and
- (3) at least 60 days have elapsed since notice and service under subsection (c) of this section."

### California:

"(c) The petition for relief and supporting documentation shall be served on the state or local prosecutorial agency that obtained the conviction for which vacatur is sought or with jurisdiction over charging decisions with regard to the arrest. The state or local prosecutorial agency shall have 45 days from the date of receipt of service to respond to the petition for relief.

(d) If opposition to the petition is not filed by the applicable state or local prosecutorial agency, the court shall deem the petition unopposed and may grant the petition."



## Judicial Discretion

### Arizona:

"The court *shall* grant the application and vacate the conviction if the court finds by clear and convincing evidence that the person's participation in the offense was a direct result of being a victim of sex trafficking pursuant to section 13-1307."

### North Carolina:

"(c) If the court grants a motion under this section, the court must vacate the conviction and may take such additional action as is appropriate in the circumstances."



## Burden of Proof

### Florida:

"Determination of the petition under this section should be by a preponderance of the evidence."

### Vermont:

"(d)(1) The court shall grant the motion if it finds by a preponderance of the evidence that:

- A. the moving party was convicted of a qualifying crime; and
- B. the conviction was obtained as a result of the moving party's having been a victim of human trafficking."





## Arrest and Adjudication Relief

### Pennsylvania:

*“(g) Conviction vacated.--If the motion under subsection (d) is granted, the court shall vacate the conviction, strike the adjudication of guilt and order the expungement of the record of the criminal proceedings. The court shall issue an order to expunge all records and files related to the moving party’s arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings and probation for the offense.”*

### New Hampshire:

*“(a) This paragraph shall apply to:*

*(1) An individual convicted for an offense which was committed as a direct result of being trafficked;*

*(2) An individual who was under 18 years of age at the time of the offense, who was adjudicated as delinquent for an offense which was committed as a direct result of being trafficked; or*

*(3) An individual who entered into a diversion agreement in lieu of further criminal proceedings for an offense which was committed as a direct result of being trafficked.”*



## EXTRA POINTS

### Return of Fees and Fines:

#### Georgia:

*“(1) For any sentence vacated pursuant to this Code section, the court vacating such sentence shall include in the order to vacate an order for the return of any fines and fees paid by the defendant under such sentence in the amount paid by the defendant; (2) The Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the return to the defendant of fines and fees paid by the defendant.”*

#### Virginia:

*“E. If the court enters a writ of vacatur, the petitioner shall be entitled to a refund of all fines, costs, forfeitures, and penalties paid in relation to the qualifying offense that was vacated. If the clerk of the court where the conviction was entered is in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, the petitioner shall be entitled to a refund of such amount. If the clerk of the court where the conviction was entered is no longer in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, a refund shall be provided only upon a showing by the petitioner of the amount of fines, costs, forfeitures, and penalties paid.”*



## Not Charging for Relief:

### Louisiana:

*“(5) An applicant for the expungement of a record of offense who was a victim of human trafficking, in accordance with R.S. 14:46.2, shall not be required to pay any fees relative to the application for expungement to the clerk of court, the Louisiana Bureau of Criminal Identification and Information, the sheriff, the district attorney, or any other agency.”*

### Colorado:

*A defendant moving to have his or her criminal records sealed pursuant to this section is not required to pay a processing fee.*

## Presumption of Victim Status:

### New Hampshire:

*“(d) The petitioner shall not be required to provide any official documentation indicating that he or she was a victim of human trafficking at the time of the offense. However, if such documentation is provided, it shall be prima facie evidence that the petitioner’s participation in the offense was a direct result of being trafficked. In this subparagraph, “ official documentation ” means:*

*(1) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the petitioner was a victim of human trafficking; or*

*(2) An affidavit or sworn testimony from a member of the clergy, a medical professional, a trained professional staff member of a victim services organization, or other professional from whom the petitioner has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of human trafficking.”*

### Georgia:

*“(D) May include documentation of a defendant’s status as a victim of an offense of trafficking under Code Section 16-5-46 at the time of the offense; provided, however, that official documentation shall not be required to obtain relief under this Code section. Such documentation shall create a rebuttable presumption that the defendant was a victim of trafficking under Code Section 16-5-46. As used in this subparagraph, the term ‘official documentation’ includes, but is not limited to, the following:*

*(i) A copy of an official record, certification, or eligibility letter from a federal, state, tribal, or local proceeding showing that the defendant was a victim of trafficking under Code Section 16-5-46;*

*(ii) An affidavit, a letter, or sworn testimony from a member of the clergy, medical professional, member of a victim services organization, or certified, licensed, or registered professional from whom the defendant has sought assistance, counseling, or legal counsel related to his or her victimization; or*

*(iii) Any other evidence that the court determines is of sufficient credibility or probative value.”*



## **Alternate Hearing Methods:**

### **Florida:**

*“(b) The petitioner or the petitioner’s attorney may appear at any hearing under this section telephonically, via video conference, or by other electronic means.”*

### **Georgia:**

*“For purposes of considering a petition provided for under subsection (a) of this Code section, testimony from the defendant, petitioner, expert witness, or any other party may be taken by the court by remote electronic means.”*



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## Provide Your Comments on Limiting Public Access to Certain Conviction Records

The Maine Legislature created the Criminal Records Review Committee to consider both the harms and benefits of limiting public access to certain criminal conviction records, especially records of convictions (a) for conduct that is no longer criminal in Maine; (b) for nonviolent crimes; or (c) for conduct committed by victims and survivors of sexual exploitation and sex trafficking through a sealing process.

**What is Sealing?** Under Maine law, a person convicted of certain low-level crimes may file a motion in court to “seal” their conviction. If the person meets all of the requirements (*for example, they have waited the required number of years after finishing their sentence without being convicted of a new crime*) the court will order that the conviction be “sealed” from the public. This means that most employers, lenders, landlords, school admissions officers, and others won’t learn about the conviction if they request a background check from the State. However, certain people including law enforcement, prosecutors and courts will still have access to the “sealed” conviction record.

The Committee invites residents of state correctional facilities and county jails to provide their thoughts on these issues. If you are interested in helping the committee with its work, please consider answering one, a few or all of the following questions in writing and mailing your response to:

**Criminal Records Review Committee  
c/o Legislative Information Office  
100 State House Station  
Augusta, Me 04330**

**[Deadline for mailing your answers to these questions: September 30, 2024](#)**

### **Our Questions to You:**

*Note: You are **not** required to answer all of these questions.*

1. Do you already know that Maine has a process motion to seal process? How much do you know about this process?
2. How would you feel if you had an opportunity to request that your criminal conviction be sealed as long as you aren’t convicted of any new crimes for a certain number of years after you are released? Would this knowledge impact the choices you make while you’re incarcerated or after you are released?
3. The current sealing law in Maine applies only to (a) Class E crimes, (b) Class D Marijuana cultivation and possession offenses that are no longer illegal in Maine and (c) convictions of engaging in prostitution. Do you think the law should remain this way or be expanded to allow the sealing of other types of crimes? **Why?**
4. What types of incentives should the law for sealing criminal convictions include? (*For example: What if a court could waive the waiting period for applying to seal your conviction if you decide to get your G.E.D., associate degree or other college degree after you are convicted*) Do you think incentives would be helpful?
5. What are the biggest challenges you expect to face when you finish your sentence? (*For example: difficulty finding housing, employment, or a professional license*) How does your criminal record impact these challenges?
6. **If you’ve previously been incarcerated**, what were the biggest challenges you faced when you were released and how did your criminal record impact these challenges?
7. What opportunities would you like to have while you are preparing for your release that would address some of the challenges you anticipate facing and how does your criminal record history impact the opportunities available to you? (*For example, are there education programs, apprenticeships, or other types of programs to help you prepare for life after release that would be helpful? If so, does how does your criminal record affect whether you have access to these programs now?*)

**If you have any questions about this poster, please speak to:**

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## Restorative Justice in Maine Law

The term “restorative justice” is used in Maine law largely in reference to juvenile criminal statutes.

**34-A MRSA §1001 (15-B) Restorative justice.** "Restorative justice" means a practice in which offenders take responsibility for causing harm and engage in a facilitated process with victims, family members, community members, advocates and others impacted by the harm that focuses on repairing the harm, addressing needs and preventing future harm.

*See also* 15 MRSA §3204, which defines restorative justice in the same way.

While the definition is contained in the statutes that pertain to both adult and juvenile corrections, the phrase is primarily used in statutes affecting juveniles, for example:

Uses such as:

1. Statements made during a restorative justice program are inadmissible as evidence against a juvenile offender – **15 MRSA §3204**
2. Requiring the Commissioner of Corrections to provide culturally informed restorative justice programs to juveniles – **34-A MRSA §1402**
3. Records of juvenile restorative justice programs are confidential in all instances where juvenile cases are sealed – **15 MRSA §3308-C**
4. Office of Victim Services is required to assist victims with obtaining the benefits of restorative justice – **34-A MRSA §1214**
5. Requiring the Maine School Safety Center to provide restorative justice services to schools – **20-A MRSA §657**
6. Requiring the Department of Education to provide technical assistance to schools for restorative justice practices – **20-A MRSA §4014**

Finally, there is one instance in which restorative justice appears in the statutes applicable to adult corrections:

1. Requiring that the Department of Public Safety develop trainings for criminal justice agencies in restorative justice practice with respect to the adult use of cannabis. Although this statute requires the development of trainings, Maine statutes do not explicitly require the *use* of these programs.

**28-B MRSA §109 Enhanced training for criminal justice agencies and municipalities.** “The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs or initiatives providing enhanced training for criminal justice agencies and municipal officers . . . in restorative justice, jail diversion, cannabis industry-specific technical assistance and mentoring for economically disadvantaged persons in communities disproportionately affected by high rates of arrest and incarceration for cannabis-related offenses. . . .”

## Illinois Criminal Record Sealing

There is no automatic criminal record sealing in Illinois. In order to seal a criminal conviction in Illinois a person must file a "Request to Expunge & Impound and/or Seal Criminal Record" form with the Circuit Clerk in the county where the charges or arrest arose. The court may order one of the following:

1. **Expungement:** Erases arrests and court supervisions from a person's criminal record as though it never happened.
2. **Sealing:** Hides a person's criminal record from most of the public. Law enforcement agencies can still access sealed records. Employers required by law to conduct background checks can access sealed felony convictions. However, these employers may not access sealed misdemeanor convictions or cases not resulting in convictions unless the employer is a law enforcement agency.

### When a record is sealed or expunged, who still has access to it?

Some agencies will be able to access an expunged or sealed criminal record:

- Law enforcement agencies including police departments, prosecutors, correctional institutions, military, and court services and Department of Child and Family Services can access all sealed records and some records expunges after a five year-waiting-period for limited purposes.
- Any employer required by law to conduct fingerprint-based background checks can access sealed felony conviction records. These employers include financial institutions, fire departments, private carrier companies, schools, park districts, health care organizations, and childcare organizations.
- An employer not listed above and members of the public may not access expunged or sealed records.

### If records are expunged or sealed, must a person disclose those records when asked?

No, they do not have to tell employers about expunged or sealed criminal records.

- On job applications a person may answer "no" to the question, "have you ever been convicted" if their entire criminal record was expunged or sealed. NOTE: in Illinois, private employers with 15 or more employees are not allowed to ask if a person has ever been convicted of a crime.
- If a person has applied for expungement or sealing and the court has not issued its decision, if asked, they still must report their criminal record to a potential employer after an interview or conditional offer of employment.
- In Illinois it is against the law for employers to ask if a person has expunged or sealed criminal records unless they are one of the agencies authorized by law to still access those records (see above).
- If an employer discovers that a person has any expunged or sealed criminal records, they cannot use that against them or they will violate the Illinois Human Rights Act.

### Crimes that are expungable:

- Arrests for misdemeanors and felonies that did not result in a conviction.
- Convictions for misdemeanors and felonies only if:

## Illinois Criminal Record Sealing

- The conviction was reversed or vacated; OR
- The person received a pardon from the Governor allowing expungement of all convictions on your record; OR
- As an Honorably Discharged Veteran, the person has a Certificate of Eligibility for Expungement from the Prisoner Review Board allowing expungement of all convictions on their record; OR
- An eligible misdemeanor or class 4 cannabis conviction under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705.
- Sentences for court supervision only if:
  - 2 years have passed since the person successfully finished your court supervision, except the offenses listed directly below; OR
  - 5 years have passed since the person successfully finished your court supervision for:
    - Domestic Battery
    - Criminal Sexual Abuse (victim was 18 or older)
    - Operation of an Uninsured Motor Vehicle
    - Operation of a Motor Vehicle when Registration is Suspended for NonInsurance
    - Display of False Insurance Card
  - If the person is 25 or older, your Reckless Driving supervision occurred when the person was under 25, and the person has no other convictions.
- Sentences of Qualified Probation, only if 5 years have passed since you successfully finished your qualified probation.

### Crimes that are NOT expungable:

- Minor Traffic Offenses, unless the person was released without being charged.
- Convictions for misdemeanors and felonies unless they were reversed, vacated, pardoned by the Governor, approved by the Prisoner Review Board or a cannabis conviction under the Illinois Cannabis Regulation and Tax Act, 410 ILCS 705.
- Court supervision or Qualified Probation that was NOT successfully completed.
- Court supervision for the following offenses:
  - Reckless Driving (if you were 25 or older at the time)
  - Driving Under the Influence
  - Sexual Offenses Against a Minor Under Age 18
  - Convictions include a finding of guilt resulting in a sentence of: probation (other than Qualified Probation, successfully completed), jail or prison time, conditional discharge, time considered served, fines (with no other sentence), and supervisions or qualified probations that are not successfully completed.

### Crimes that are sealable:

- At any time
  - Arrests that did not lead to conviction
  - Successfully completed second chance probation
  - Minor traffic offenses that were not charged
- After 3 years from completion of last sentence



## Illinois Criminal Record Sealing

- Most misdemeanors and felonies (except crimes eligible “after 5 years” and “crimes that are NOT sealable” below.
  - If required to register for Arson, Murder or Violent offender against youth, seal becomes available after the person is no longer required to register
- After 5 years
  - Certain drug related crimes
    - Cannabis
    - Controlled substances
    - Methamphetamine
    - Second Chance Probation
- EDUCATION INCENTIVE
  - Completion of last sentence instead of 3 or 5 years if
    - High school diploma
    - Associate’s degree
    - Career certificate
    - Vocational or technical cert
    - Bachelor’s degree
    - Passed high school GED

### Crimes that are NOT sealable:

- Minor traffic offenses
- Driving offenses
  - DUI
  - Reckless driving (unless under 25 at the time and no other convictions for DUI or Reckless driving)
- Domestic battery
- Violation of a protection order, civil no contact order or stalking no contact order
- Sex offenses
  - Soliciting a prostitute
  - Felony Public indecency (misdemeanor is eligible)
  - All other misdemeanor sex offenses other than prostitution
  - Offenses requiring sex offender registration
- Animal offenses
  - Dog fighting
  - Beating or torturing an animal
  - Abandonment
  - Other care for animals misdemeanors
- New felony convictions after having a felony conviction sealed (may also unseal prior sealed felony convictions)

## Stocco, Janet

---

**From:** Sage, Rae <Rae.Sage@maine.gov>  
**Sent:** Tuesday, September 17, 2024 2:15 PM  
**To:** Stocco, Janet  
**Subject:** FW: follow-up to question from Criminal Records Review Committee  
**Attachments:** Racial Disparities - Suspension\_Expulsion\_Referral\_Arrest 2011-2021.xlsx

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

Good Afternoon, Janet!

Attached is a spreadsheet detailing racial disparities in relation to suspension and expulsion. Below is a detailed explanation of the data and the resources that were used to collect it as explained by our Research Director.

Please let us know if you have any other questions!

-Rae Sage

---

**From:** Sullivan, Leeann <Leeann.Sullivan@maine.gov>  
**Sent:** Monday, September 16, 2024 10:46 AM  
**To:** Sage, Rae <Rae.Sage@maine.gov>  
**Subject:** RE: follow-up to question from Criminal Records Review Committee

Hello!

Attached is an excel sheet that breaks down school a) suspensions and expulsions and b) referrals and arrests by race, as a percent of total enrollment. You can see different years in the tabs at the bottom. I have highlighted on the sheet in yellow where punitive action is higher than percent enrollment and in orange where it is significantly higher (indicating a disparity). Note that the most recent data is from 2020-2021, which was technically a COVID year, and as a result, had significantly fewer students in school, and therefore fewer students penalized. I would read that data with caution and say that we need more years post-COVID to see whether the leveling out of disparities that we see is real or just a function of the dramatic impact COVID had on schools.

**Overall, I would say the data shows a clear trend where (pre-COVID), Black students are uniquely suspended and expelled AND referred and arrested at at least twice their enrollment rate. In general, other racial groups are generally at, around, or just below their enrollment.**

The source for this data is the [US DOE's Civil Rights Data Collection site](#) – you can toggle by year at the top right of the page, and by area of interest as you scroll down. It's based on data reported to the federal government from schools directly. FYI, the numbers included in the excel sheet are for BOTH with and without disability, but if someone wanted to look at that data separately, they could toggle through it on the website.

Let me know if I can help with anything else, or if you need any help interpreting the data here!



Leeann Sullivan, PhD | she/her  
Research Specialist  
**Permanent Commission On The Status Of Racial,  
Indigenous, And Tribal Populations, State Of Maine**  
126 State House Station, Augusta, ME 04330 | Wabanaki Ancestral Land  
(207) 458-9382 | [leeann.sullivan@maine.gov](mailto:leeann.sullivan@maine.gov) | [pcritp.me](http://pcritp.me)

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**From:** Sage, Rae <[Rae.Sage@maine.gov](mailto:Rae.Sage@maine.gov)>  
**Sent:** Friday, September 13, 2024 3:32 PM  
**To:** Sullivan, Leeann <[Leeann.Sullivan@maine.gov](mailto:Leeann.Sullivan@maine.gov)>  
**Subject:** RE: follow-up to question from Criminal Records Review Committee

Thank you!!

---

**From:** Sullivan, Leeann <[Leeann.Sullivan@maine.gov](mailto:Leeann.Sullivan@maine.gov)>  
**Sent:** Friday, September 13, 2024 12:55 PM  
**To:** Sage, Rae <[Rae.Sage@maine.gov](mailto:Rae.Sage@maine.gov)>  
**Subject:** RE: follow-up to question from Criminal Records Review Committee

I can pull together some stuff for you, though may want to connect with Robby on Monday as he drafted the edu IRL and may have a better sense of what is available. Ill connect back with you by EOD Monday!

Leeann

---

**From:** Sage, Rae <[Rae.Sage@maine.gov](mailto:Rae.Sage@maine.gov)>  
**Sent:** Friday, September 13, 2024 12:07 PM  
**To:** Sullivan, Leeann <[Leeann.Sullivan@maine.gov](mailto:Leeann.Sullivan@maine.gov)>  
**Subject:** FW: follow-up to question from Criminal Records Review Committee

Hi Leeann!

When we gave testimony for the Criminal Record Review Committee a question came up regarding the school to prison pipeline and specific racial data about suspension/expulsion in Maine. In our testimony we were talking about the compounding nature of criminal records as something that blocks access to housing, jobs, and education broadly.

Just wondering if you have any resources, we can offer to answer this question and if this kind of data is available! In my attempt to address this question I did note that in our conversations w/ RJ organizations it has been highlighted that RJ practices are potentially not being made available to youth of color in the same capacity, but we hadn't yet seen specific data to back that up.

2020-2021

2020-2021	One or more		Expulsions	Total		Overall Enrollment		Referral	Arrest
	OOS Suspensions	ISS		Suspensions or Expulsions					
AIAN	32	15	1	48	1114	AIAN	2	0	
Asian	10	6	0	16	2376	Asian	0	0	
Black	65	44	0	109	7138	Black	0	0	
Hispanic	50	29	0	79	4513	Hispanic	0	0	
Hawaiian	0	1	0	1	178	Hawaiian	0	0	
Two or more	45	28	0	73	5155	Two or more	2	0	
White	1850	963	22	2835	146676	White	121	1	
			TOTAL	3161	167150		125	1	

2020-2021

	S/E Rate	Enrollment Rate
AIAN	2%	1%
Asian	1%	1%
Black	3%	4%
Hispanic	2%	3%
Hawaiian	0%	0%
Two or more	2%	3%
White	90%	88%

2020-2021

	Referral Rate	Arrest Rate	Enrollment Rate
AIAN	2%	0%	1%
Asian	0%	0%	1%
Black	0%	0%	4%
Hispanic	0%	0%	3%
Hawaiian	0%	0%	0%
Two or more	2%	0%	3%
White	97%	100%	88%

<https://civilrightsdata.ed.gov/profile/us/me?surveyYear=2020>

This data comes from a COVID year and should be read with caution. More data will be needed to understand whether these patterns persisted in the years since 2020.

2019

NO DATA AVAILABLE DUE TO COVID-19

2017-2018

2017-2018	One or more	One or more	Total			Referral	Arrest	
	OOS	ISS	Expulsions	Suspensions or Expulsions	Overall Enrollment			
AIAN	59	68	3	130	1221	AIAN	4	1
Asian	43	44	0	87	2661	Asian	2	0
Black	427	534	3	964	6646	Black	47	7
Hispanic	165	134	2	301	3858	Hispanic	6	0
Hawaiian	4	2	0	6	209	Hawaiian	0	0
Two or more	157	126	1	284	4323	Two or more	8	1
White	6034	5066	104	11204	157463	White	502	34
			TOTAL	12976	176381		569	43

2017-2018

	S/E Rate	Enrollment Rate
AIAN	1%	1%
Asian	1%	2%
Black	7%	4%
Hispanic	2%	2%
Hawaiian	0%	0%
Two or more	2%	2%
White	86%	89%

2017-2018

	Referral Rate	Arrest Rate	Enrollment Rate
AIAN	1%	2%	1%
Asian	0%	0%	2%
Black	8%	16%	4%
Hispanic	1%	0%	2%
Hawaiian	0%	0%	0%
Two or more	1%	2%	2%
White	88%	79%	89%

<https://civilrightsdata.ed.gov/profile/us/me?surveyYear=2017>

2015-2016

2015-2016	One or more OOS	One or more	Total		Overall	Referral	Arrest	
	Suspensions	ISS	Expulsions	Suspensions or Expulsions				Enrollment
AIAN	114	71	4	189	1441	AIAN	4	0
Asian	54	52	2	108	2833	Asian	8	2
Black	526	543	14	1083	6260	Black	33	0
Hispanic	196	157	6	359	3626	Hispanic	20	0
Hawaiian	4	4	0	8	270	Hawaiian	0	0
Two or more	206	166	6	378	3727	Two or more	14	2
White	5707	4547	172	10426	160303	White	754	16
			TOTAL	12551	178460		833	20

2015-2016

	S/E Rate	Enrollment Rate
AIAN	2%	1%
Asian	1%	2%
Black	9%	4%
Hispanic	3%	2%
Hawaiian	0%	0%
Two or more	3%	2%
White	83%	90%

2015-2016

	Referral Rate	Arrest Rate	Enrollment Rate
AIAN	0%	0%	1%
Asian	1%	0%	2%
Black	4%	0%	4%
Hispanic	2%	0%	2%
Hawaiian	0%	0%	0%
Two or more	2%	10%	2%
White	91%	80%	90%

<https://civilrightsdata.ed.gov/profile/us/me?surveyYear=2015>

2013-2014

2013-2014	One or more OOS			Total	
	Suspensions	One or more ISS	Expulsions	Suspensions or Expulsions	Overall Enrollment
AIAN	62	86	0	148	1339
Asian	51	40	0	91	2838
Black	466	432	10	908	5919
Hispanic	223	145	4	372	3189
Hawaiian	6	6	0	12	304
Two or more	124	113	8	245	2956
White	5550	4718	216	10484	158810
			TOTAL	12260	175355

	Referral	Arrest
AIAN	6	0
Asian	8	0
Black	46	2
Hispanic	18	0
Hawaiian	0	0
Two or more	22	0
White	598	31
	698	33

2013-2014

	S/E Rate	Enrollment Rate
AIAN	1%	1%
Asian	1%	2%
Black	7%	3%
Hispanic	3%	2%
Hawaiian	0%	0%
Two or more	2%	2%
White	86%	91%

2013-2014

	Referral Rate	Arrest Rate	Enrollment Rate
AIAN	1%	0%	1%
Asian	1%	0%	2%
Black	7%	6%	3%
Hispanic	3%	0%	2%
Hawaiian	0%	0%	0%
Two or more	3%	0%	2%
White	86%	94%	91%

<https://civilrightsdata.ed.gov/profile/us/me?surveyYear=2013>



2011-2012

2011-2012	One or more OOS Suspensions	One or more ISS	Expulsions	Total Suspensions or Expulsions	Overall Enrollment	Referral	Arrest
AIAN	106	101	0	207	1481	10	0
Asian	70	42	2	114	3034	12	4
Black	585	401	10	996	5753	51	2
Hispanic	239	135	6	380	3016	26	4
Hawaiian	8	2	0	10	335	4	0
Two or more	144	100	2	246	2100	12	4
White	6828	4883	142	11853	166036	676	114
			TOTAL	13806	181755	791	128

2011-2012

	S/E Rate	Enrollment Rate
AIAN	1%	1%
Asian	1%	2%
Black	7%	3%
Hispanic	3%	2%
Hawaiian	0%	0%
Two or more	2%	1%
White	86%	91%

2011-2012

	Referral Rate	Arrest Rate	Enrollment Rate
AIAN	1%	0%	1%
Asian	2%	0%	2%
Black	6%	2%	3%
Hispanic	3%	0%	2%
Hawaiian	0%	0%	0%
Two or more	2%	3%	1%
White	85%	89%	91%

<https://civilrightsdata.ed.gov/profile/us/me?surveyYear=2011>

## State of Maine Judicial Branch



COURT ALERTS IN EFFECT. [See Active Alerts](#)

[Home](#) → [Criminal Cases](#) → Sealing Your Criminal Record

# 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

### The former Class E crime of Engaging in Prostitution

The process for sealing records for the former Class E crime of *Engaging in Prostitution* is different than other criminal convictions. [Please see the eligibility information and process on this page \(sealing-prostitution.html\)](#).

### Other criminal convictions that can be sealed under this process are:

- A current or former Class E crime (except for certain [sexual assaults \(https://legislature.maine.gov/statutes/17-A/title17-Ach11sec0.html\)](#));
- 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 \(https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html\)](#), subsection 1, paragraph A, subparagraph (4);
  - Aggravated cultivating of marijuana under [Title 17-A, section 1105-D \(https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html\)](#), subsection 1, paragraph B-1, subparagraph (4);
  - Aggravated cultivating of marijuana under [Title 17-A, section 1105-D \(https://legislature.maine.gov/statutes/17-A/title17-Asec1105-D.html\)](#), 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)
- [Sealing Criminal Records of Convictions for the Former Class E Crime of Engaging in Prostitution](#)
- [Juvenile Court: Confidentiality & Court Records](#)
-

MAINE JUDICIAL BRANCH

STATE OF MAINE

V.

"X" the court for filing:

Superior Court  District Court

Unified Criminal Docket

County: \_\_\_\_\_

Location (Town): \_\_\_\_\_

Docket No.: \_\_\_\_\_

Defendant

Defendant's DOB (mm/dd/yyyy): \_\_\_\_\_

MOTION TO SEAL CRIMINAL HISTORY

15 M.R.S. §§ 2263-2264

Now comes the defendant and moves, pursuant to 15 M.R.S. § 2263, to seal Defendant's criminal history. In support of this motion, Defendant states:

1. Defendant was convicted of the following crime of (name of crime) \_\_\_\_\_ on (mm/dd/yyyy) \_\_\_\_\_. This crime is eligible for sealing under 15 M.R.S. § 2261(6).
2. It has been at least 4 years since Defendant fully completed the sentence imposed, including any incarceration, probation, administrative release, license suspension, fine payments, restitution and/or community service.
3. Defendant has no other adult criminal convictions in Maine and has not had a case dismissed as the result of a deferred disposition since completing their sentence for this offence.
4. Defendant has no other criminal convictions in another state or jurisdiction since completing their sentence for this offense.
5. Defendant has no pending criminal charges in Maine or in another jurisdiction.

Defendant moves this Court to order special restrictions on dissemination and use of Defendant's criminal history record information relating to Defendant's prior criminal conviction in this matter.

Date (mm/dd/yyyy): \_\_\_\_\_



Defendant's Signature

Defendant's Attorney and Maine Bar No.  
(Having an attorney is not required for filing)

Defendant's Mailing Address

**ADA Notice:** The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation, contact the Court Access Coordinator, [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov), or a court clerk.  
**Language Services:** For language assistance and interpreters, contact a court clerk or [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

## State of Maine Judicial Branch



COURT ALERTS IN EFFECT. [See Active Alerts](#)

[Home](#) → [Criminal Cases](#) → Sealing Criminal Records of Convictions for the Former Class E Crime of Engaging in Prostitution

# Sealing Criminal Records of Convictions for the Former Class E Crime of Engaging in Prostitution

Criminal convictions often have collateral consequences — meaning things that could impact your life and your future, in addition to the sentence imposed by the court.

The Maine Legislature has approved a process by which persons convicted of the former Class E crime of [Engaging in Prostitution](https://legislature.maine.gov/statutes/17-A/title17-Asec853-A.html) (<https://legislature.maine.gov/statutes/17-A/title17-Asec853-A.html>) may have their records sealed if:

(1) At least 1 year has passed since your sentence alternative has been fully satisfied. Sentencing alternatives include at least one of the following:

- Unconditional discharge;
- A split sentence of imprisonment with probation or administrative release;
- A fully suspended term of imprisonment with probation or administrative release;
- A term of imprisonment;
- A term of imprisonment followed by a period of supervised release;
- A fine; or
- A specified number of hours of community service work.

**AND**

(2) You have **not** been convicted of one of the following Maine crimes:

- Aggravated Sex Trafficking;
- Sex Trafficking;
- Engaging a Prostitute;
- Commercial Sexual Exploitation of Minor or Person with Mental Disability; or
- Engaging in substantially similar conduct in another jurisdiction.

## Process to request that a conviction for engaging in prostitution be sealed

File [Form CR-289](https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=CR-289) (<https://mjbportal.courts.maine.gov/CourtForms/FormsLists/DownloadForm?strFormNumber=CR-289>) with the clerk's office for the court in which the conviction occurred.

You may do this with an attorney, or you may represent yourself (pro se). The State will be represented by a prosecutor from the office that handled the original case.

The court will schedule a hearing. At the hearing the court will review the requirements listed above and will grant the motion and order the conviction sealed if the person filing the motion has proven by a "preponderance of the evidence" (meaning "more likely than not") that each requirement has been met.

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 send notice that this has been done to the person's last known address.

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](#)
- [Motion to Seal Conviction for Engaging in Prostitution CR-289](#)
- [Sealing Criminal Records](#)
- [Juvenile Court: Confidentiality & Court Records](#)
- 



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MAINE JUDICIAL BRANCH

STATE OF MAINE

V.

"X" the court for filing:

Superior Court  District Court

Unified Criminal Docket

County: \_\_\_\_\_

Location (Town): \_\_\_\_\_

Docket No.: \_\_\_\_\_

\_\_\_\_\_ Defendant

Defendant's DOB (mm/dd/yyyy): \_\_\_\_\_

MOTION TO SEAL CONVICTION FOR ENGAGING IN PROSTITUTION

15 M.R.S.A. § 2262-A

Now comes the defendant and moves pursuant to 15 M.R.S.A. §§ 2262-A and 2263, to seal Defendant's criminal conviction for Engaging in Prostitution, a Class E crime, under 17-A M.R.S.A., former § 853-A. In support of this motion, Defendant states:

- 1. Defendant was convicted of the Class E crime of Engaging in Prostitution on (mm/dd/yyyy) \_\_\_\_\_. This crime is eligible for sealing under 15 M.R.S.A. § 2261(6) and §2262-A.
- 2. It has been at least 1 year since Defendant fully satisfied each of the sentencing alternatives imposed, including any incarceration, probation, administrative release, license suspension, fine payments, restitution and/or community service.
- 3. Defendant has not been convicted of a violation of Aggravated Sex Trafficking, Sex Trafficking, Engaging in Prostitute, Patronizing Prostitution of Minor or Person with Mental Disability, or for engaging in substantially similar conduct in another jurisdiction.

Defendant moves this Court to order sealing of Defendant's criminal history record information relating to Defendant's prior criminal conviction for Engaging in Prostitution in this matter.

Date (mm/dd/yyyy): \_\_\_\_\_



\_\_\_\_\_ Defendant's Signature

\_\_\_\_\_ Defendant's Mailing Address

\_\_\_\_\_ Defendant's Attorney and Maine Bar No. (if applicable)

ADA Notice: The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation, contact the Court Access Coordinator, [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov), or a court clerk.

Language Services: For language assistance and interpreters, contact a court clerk or [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

**Post-Judgment Motions to Seal Criminal History Record Information**

**Title 15, Chapter 310-A of the Maine Revised Statutes**  
(effective August 8, 2022)

	# Motions Filed	# Motions Granted	# Motions Denied	# Motions Pending
2023	14	6	3	5
2024 (through 9/6/24)	18	6	8 denied 1 moot	3



# The Vermont Statutes Online

The Vermont Statutes Online does not include the actions of the 2024 session of the General Assembly. We expect them to be updated by November 1st.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

## Title 13: Crimes and Criminal Procedure

### Chapter 231: Uniform Collateral Consequences of Conviction

#### § 8001. Short title

This chapter may be cited as the Uniform Collateral Consequences of Conviction Act. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### § 8002. Definitions

As used in this chapter:

- (1) "Collateral consequence" means a mandatory sanction or a discretionary disqualification.
- (2) "Conviction" includes an adjudication for delinquency for purposes of this chapter only, unless otherwise specified. "Convicted" has a corresponding meaning.
- (3) "Court" means the Criminal Division of the Superior Court.
- (4) "Decision-maker" means the State acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees or a government contractor, including a subcontractor, made subject to this chapter by contract, by law other than this chapter, or by ordinance.
- (5) "Discretionary disqualification" means a penalty, disability, or disadvantage that an administrative agency, governmental official, or court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction of an offense. Discretionary disqualifications do not encompass charging decisions, such as the imposition of pre-charge diversion or intervention programs.
- (6) "Mandatory sanction" means a penalty, disability, or disadvantage imposed on an individual as a result of the individual's conviction of an offense which applies by operation of law whether or not the penalty, disability, or disadvantage is included in the judgment or sentence. The term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.
- (7) "Offense" means a felony, misdemeanor, or delinquent act under the laws of this State, another state, or the United States.
- (8) "Incarceration" means confinement in jail or prison.
- (9) "State" means a state of the U.S., the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### § 8003. Limitation on scope

- (a) This chapter does not provide a basis for:
  - (1) invalidating a plea, conviction, or sentence;
  - (2) a cause of action for money damages;
  - (3) a claim for relief from or defense to the application of a collateral consequence based on a failure to comply with this chapter; or
  - (4) seeking relief from a collateral consequence imposed by another state or the United States or a subdivision, agency, or instrumentality thereof, unless the law of such jurisdiction provides for such relief.
- (b) This chapter shall not affect:
  - (1) the duty an individual's attorney owes to the individual;
  - (2) a claim or right of a victim of an offense; or

(3) a right or remedy under law other than this chapter available to an individual convicted of an offense. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

**§ 8004. Identification, collection, and publication of laws regarding collateral consequences**

(a)(1) The Attorney General shall:

(A) identify or cause to be identified any provision in this State's Constitution, statutes, and administrative rules which imposes a mandatory sanction or authorizes the imposition of a discretionary disqualification and any provision of law that may afford relief from a collateral consequence;

(B) prepare or compile from available sources a collection of citations to, and the text or short descriptions of, the provisions identified under subdivision (a)(1)(A) of this section not later than January 1, 2016; and

(C) update the collection provided under subdivision (B) of this subdivision (1) annually by January 1.

(2) In complying with subdivision (a)(1) of this section, the Attorney General may rely on or incorporate the summary of this State's mandatory sanctions, discretionary disqualifications, and relief provisions prepared by the National Institute of Justice described in Section 510 of the Court Security Improvement Act of 2007, Pub. L. No. 110-177, § 510, 121 Stat. 2534 (2008) as it exists and as it may be amended.

(b) The Attorney General shall include or cause to be included the following statements in a prominent manner at the beginning of the collection required by subsection (a) of this section:

(1) This collection has not been enacted into law and does not have the force of law.

(2) An error or omission in this collection or any reference work cited in this collection is not a reason for invalidating a plea, conviction, or sentence or for not imposing a mandatory sanction or authorizing a discretionary disqualification.

(3) The laws of other jurisdictions that impose additional mandatory sanctions and authorize additional discretionary disqualifications are not included in this collection.

(4) This collection does not include any law or other provision regarding the imposition of or relief from a mandatory sanction or a discretionary disqualification enacted or adopted after [insert date the collection was prepared or last updated].

(c) The Attorney General shall publish or cause to be published the collection prepared and updated as required by subsection (a) of this section.

(d) The Attorney General shall publish or cause to be published as part of the collection the title and Internet address, if available, of the most recent collection of:

(1) the collateral consequences imposed by federal law; and

(2) any provision of federal law that may afford relief from a collateral consequence.

(e) An agency that adopts a rule pursuant to 3 V.S.A. §§ 836-844 that implicates collateral consequences to a conviction shall forward a copy of the rule to the Attorney General. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

**§ 8005. Notice of collateral consequences and eligibility for expungement in pretrial proceeding**

(a) When an individual receives formal notice that the individual is charged with an offense, the court shall provide either oral or written notice substantially similar to the following to be communicated to the individual:

(1) If you plead guilty or are convicted of an offense, you may suffer additional legal consequences beyond jail or prison, home confinement, probation, and fines. These consequences may include:

(A) being unable to get or keep some licenses, permits, or jobs;

(B) being unable to get or keep benefits such as public housing or education;

(C) receiving a harsher sentence if you are convicted of another offense in the future;

(D) having the government take your property;

(E) being unable to serve in the military or on a jury;

(F) being unable to possess a firearm; and

(G) being unable to exercise your right to vote if you move to another state.

(2) If you are not a U.S. citizen, a guilty plea or conviction may also result in your deportation, removal, exclusion from admission to the United States, or denial of citizenship.

(3) The law may provide ways to obtain some relief from these consequences.

(4) Further information about the consequences of conviction is available on the Internet at <http://legislature.vermont.gov/statutes/chapter/13/231>.

(b) Before the court accepts a plea of guilty or nolo contendere from an individual, the court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(E) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(F) that conviction of a crime in this State does not prohibit an individual from voting in this State. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016; amended 2017, No. 57, § 1.)

#### **§ 8006. Notice of collateral consequences and eligibility for expungement upon release**

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(5) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

(6) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

(d) For persons receiving a penalty involving a fine only, the court shall, at the time of the judgment, provide either oral or written notice that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016; amended 2017, No. 57, § 2.)

#### **§ 8007. Authorization required for mandatory sanction; ambiguity**

(a) A mandatory sanction may be imposed only by statute or ordinance or by a rule adopted in the manner provided in 3 V.S.A. §§ 836-844. A law or rule shall impose unambiguously a collateral consequence in order for a court to impose a collateral consequence.

(b) A law creating a collateral consequence that is ambiguous as to whether it imposes an automatic mandatory sanction or whether it authorizes a decision-maker to disqualify a person based upon his or her conviction shall be construed as authorizing a discretionary disqualification. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8008. Decision to disqualify**

In deciding whether to impose a discretionary disqualification, a decision-maker shall undertake an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual. In making that decision, the decision-maker may consider, if substantially related to the benefit or opportunity at issue, the particular facts

and circumstances involved in the offense and the essential elements of the offense. A conviction itself may not be considered except as having established the elements of the offense. The decision-maker shall also consider other relevant information, including the effect on third parties of granting the benefit or opportunity and whether the individual has been granted relief such as an order of limited relief or a certificate of restoration of rights. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8009. Effect of conviction by another state or the United States; relieved or pardoned conviction**

(a) For purposes of authorizing or imposing a collateral consequence in this State, a conviction of an offense in a court of another state or the United States is deemed a conviction of the offense in this State with the same elements. If there is no offense in this State with the same elements, the conviction is deemed a conviction of the most serious offense in this State which is established by the elements of the offense. A misdemeanor in the jurisdiction of conviction may not be deemed a felony in this State, and an offense lesser than a misdemeanor in the jurisdiction of conviction may not be deemed a conviction of a felony or misdemeanor in this State.

(b) For purposes of authorizing or imposing a collateral consequence in this State, a juvenile adjudication in another state or the United States may not be deemed a conviction of a felony, misdemeanor, or offense lesser than a misdemeanor in this State, but may be deemed a juvenile adjudication for the delinquent act in this State with the same elements. If there is no delinquent act in this State with the same elements, the juvenile adjudication is deemed an adjudication of the most serious delinquent act in this State which is established by the elements of the offense.

(c) A conviction that is reversed, overturned, or otherwise vacated by a court of competent jurisdiction of this State, another state, or the United States on grounds other than rehabilitation or good behavior may not serve as the basis for authorizing or imposing a collateral consequence in this State.

(d) A pardon issued by another state or the United States has the same effect for purposes of authorizing, imposing, and relieving a collateral consequence in this State as it has in the issuing jurisdiction.

(e) A conviction that has been relieved by expungement, sealing, annulment, set-aside, or vacation by a court of competent jurisdiction of another state or the United States on grounds of rehabilitation or good behavior, or for which civil rights are restored pursuant to statute, has the same effect for purposes of authorizing or imposing collateral consequences in this State as it has in the jurisdiction of conviction. However, such relief or restoration of civil rights does not relieve collateral consequences applicable under the law of this State for which relief could not be granted under section 8012 of this title or for which relief was expressly withheld by the court order or by the law of the jurisdiction that relieved the conviction. An individual convicted in another jurisdiction may seek relief under section 8010 or 8011 of this title from any collateral consequence for which relief was not granted in the issuing jurisdiction, other than those listed in section 8012 of this title, and the court shall consider that the conviction was relieved or civil rights restored in deciding whether to issue an order of limited relief or certificate of restoration of rights.

(f) A charge or prosecution in any jurisdiction which has been finally terminated without a conviction and imposition of sentence based on successful participation in a deferred adjudication or diversion program may not serve as the basis for authorizing or imposing a collateral consequence in this State. This subsection does not affect the validity of any restriction or condition imposed by law as part of participation in the deferred adjudication or diversion program, before or after the termination of the charge or prosecution. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8010. Order of limited relief**

(a) An individual convicted of an offense may petition for an order of limited relief from one or more mandatory sanctions related to employment, education, housing, public benefits, or occupational licensing. The individual seeking an order of relief shall provide the prosecutor's office with notice of his or her petition. After notice, the petition may be presented to the sentencing court at or before sentencing or to the Superior Court at any time after sentencing. If the petition is filed prior to sentencing, it shall be treated as a motion in the criminal case. If the petition is filed after sentencing, it shall be treated as a post-judgment motion.

(b) Except as otherwise provided in section 8012 of this title, the court may issue an order of limited relief relieving one or more of the mandatory sanctions described in this chapter if, after reviewing the petition, the individual's criminal history record, any filing by a victim under section 8014 of this title, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) granting the petition will materially assist the individual in obtaining or maintaining employment, education, housing, public benefits, or occupational licensing;

(2) the individual has substantial need for the relief requested in order to live a law-abiding life; and

(3) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual.

(c) The order of limited relief shall specify:

(1) the mandatory sanction from which relief is granted; and

(2) any restriction imposed pursuant to subsections 8013(a) and (b) of this title.

(d) An order of limited relief relieves a mandatory sanction to the extent provided in the order.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in subsection 8008 of this title. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8011. Certificate of restoration of rights**

(a) An individual convicted of an offense may petition the court for a certificate of restoration of rights relieving mandatory sanctions not sooner than five years after the individual's most recent conviction of a felony or misdemeanor in any jurisdiction, or not sooner than five years after the individual's release from incarceration pursuant to a criminal sentence in any jurisdiction, whichever is later. The individual seeking restoration of rights shall provide the prosecutor's office with notice of his or her petition.

(b) Except as otherwise provided in section 8012 of this title, the court may issue a certificate of restoration of rights if, after reviewing the petition, the individual's criminal history, any filing by a victim under section 8015 of this title or a prosecuting attorney, and any other relevant evidence, it finds the individual has established by a preponderance of the evidence that:

(1) the individual is engaged in or seeking to engage in a lawful occupation or activity, including employment, training, education, or rehabilitative programs, or the individual otherwise has a lawful source of support;

(2) the individual is not in violation of the terms of any criminal sentence or that any failure to comply is justified, excused, involuntary, or insubstantial;

(3) a criminal charge is not pending against the individual; and

(4) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or to any individual.

(c) A certificate of restoration of rights must specify any restriction imposed and mandatory sanction from which relief has not been granted under section 8013 of this title.

(d) A certificate of restoration of rights relieves all mandatory sanctions, except those listed in section 8012 of this title and any others specifically excluded in the certificate.

(e) If a mandatory sanction has been relieved pursuant to this section, a decision-maker may consider the conduct underlying a conviction as provided in section 8008 of this title. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8012. Discretionary disqualifications and mandatory sanctions not subject to order of limited relief or certificate of restoration of rights**

(a) An order of limited relief or certificate of restoration of rights may not be issued to relieve the following mandatory sanctions:

(1) requirements imposed by chapter 167, subchapter 3 of this title (sex offender registration; law enforcement notification);

(2) a motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to Title 23 for which restoration or relief is available; or

(3) ineligibility for employment by law enforcement agencies, including the Office of the Attorney General, State's Attorney, police departments, sheriff's departments, State Police, or the Department of Corrections.

(b) An order of limited relief or certificate of restoration of rights may not be issued to relieve a discretionary disqualification or mandatory sanction imposed due to:

(1) a conviction of a listed crime as defined in section 5301 of this title; or

(2) a conviction of trafficking of regulated drugs pursuant to 18 V.S.A. chapter 84. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8013. Issuance, modification, and revocation of order of limited relief and certificate of restoration of rights**

(a) When a petition is filed under section 8010 or 8011 of this title, including a petition for enlargement of an existing order of limited relief or certificate of restoration of rights, the court shall notify the office that prosecuted the offense giving rise to the collateral consequence from which relief is sought and, if the conviction was not obtained in a court of this State, the Attorney General. The court may issue an order or certificate subject to restriction or condition.

(b) The court may restrict an order of limited relief or certificate of restoration of rights if it finds just cause by a preponderance of the evidence. Just cause includes subsequent conviction of a related felony in this State or of an offense in another jurisdiction that is deemed a felony in this State. An order of restriction may be issued:

(1) on motion of the court, the prosecuting attorney who obtained the conviction, or a government agency designated by that prosecutor;

(2) after notice to the individual and any prosecutor that has appeared in the matter; and

(3) after a hearing if requested by the individual or the prosecutor that made the motion or any prosecutor that has appeared in the matter.

(c) The court shall order any test, report, investigation, or disclosure by the individual it reasonably believes necessary to its decision to issue or modify an order of limited relief or certificate of restoration of rights. If there are material disputed issues of fact or law, the individual and any prosecutor notified under subsection (a) of this section or another prosecutorial agency designated by a prosecutor notified under subsection (a) of this section may submit evidence and be heard on those issues.

(d) A criminal history record as defined in 20 V.S.A. § 2056a and a criminal conviction record as defined in 20 V.S.A. § 2056c shall include issuance and modification of orders and certificates.

(e) The court may adopt rules for application, determination, modification, and revocation of orders of limited relief and certificates of restoration of rights.

(f) If the court grants in part or denies a petition under section 8010 or 8011 of this title, the court may order that the person not petition for relief for that particular offense under either section for a period not to exceed five years. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8014. Reliance on order or certificate as evidence of due care**

In a judicial or administrative proceeding alleging negligence or other fault, an order of limited relief or a certificate of restoration of rights may be introduced as evidence of a person's due care in hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or engaging in activity with the individual to whom the order was issued, if the person knew of the order or certificate at the time of the alleged negligence or other fault. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8015. Victim's rights**

A victim of an offense may participate in a proceeding for issuance of an order of limited relief or a certificate of restoration of rights in the same manner as at a sentencing proceeding pursuant to section 5321 of this title to the extent permitted by rules adopted by the court. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8016. Uniformity of application and construction**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)

#### **§ 8017. Savings and transitional provisions**

(a) This chapter applies to collateral consequences whenever enacted or imposed, unless the law creating the collateral consequence expressly states that this chapter does not apply.

(b) This chapter does not invalidate the imposition of a mandatory sanction on an individual before July 1, 2014, but a mandatory sanction validly imposed before July 1, 2014 may be the subject of relief under this chapter. (Added 2013, No. 181 (Adj. Sess.), § 1, eff. Jan. 1, 2016.)



## **THE MODEL COLLATERAL CONSEQUENCES OF CONVICTION ACT**

### *- A Summary -*

As the percentage of Americans with a criminal record grows, states are increasingly seeking ways to prevent recidivism and facilitate successful reintegration into society while still preserving the safety of their populations. Individuals with criminal convictions are often subject to state regulations administered largely outside of the criminal justice system, which impose consequences beyond jail time or fines. These consequences can prevent individuals with criminal records from being able to meaningfully participate in society. The Model Collateral Consequences of Conviction Act (the “Act”) improves the law in this area by (1) adding transparency requirements regarding the assessment of collateral consequences; and (2) creating a path for individuals with a criminal conviction to request relief from certain consequences when appropriate.

Collateral consequences, which may include denial of government-issued licenses or permits, ineligibility for public services and programs, the elimination or impairment of civil rights, and potential deportation for non-citizens, are often scattered throughout a state’s various laws. This lack of organization makes it difficult for criminal defendants, and even lawyers and judges, to understand the full implications of a guilty plea or conviction. To promote transparency and ensure that all parties to a criminal case understand the full implications of a guilty plea or conviction, the Act requires enacting states to identify and document all criminal sanctions on one website, including both automatic bars and discretionary penalties. Much of this work has already been completed by the National Inventory of Collateral Consequences of Conviction, which is a federally-compiled index of collateral sanctions that is available for free online.

Additionally, the Act requires judges to confirm that criminal defendants have received notice of and understand the collateral consequences associated with a conviction at several points during their case. First, the defendant must be notified at or before formal notification of charges; second, at the point of a guilty plea; third, at sentencing; and fourth, when leaving custody. These touchpoints enable the defendant to make an informed decision about how to proceed with their case, and help them to understand how to conduct themselves in accordance with the law upon their release.

While technology allows criminal defendants, attorneys, and judges to more easily identify the implications of a conviction, it also allows landlords, employers, and government bodies easier access to the criminal records that can be used to disqualify applicants for homes, jobs, and services. Existing state law rarely authorizes the removal of specific collateral sanctions, which significantly limits the opportunities available to even minor criminal offenders.

To address this serious concern, the Act creates two different forms of relief. The first, an Order of Limited Relief, is available as early as sentencing in order to facilitate reentry and permits a court or agency to lift the automatic bar of a collateral sanction. To receive an Order of Limited



# Uniform Law Commission

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Relief, the individual must show that the relief would “materially assist” them in obtaining employment, education, housing, public benefits or occupational licensing, and they must demonstrate that they have a “substantial need” for the benefit in order to live a law-abiding life. Once an Order of Limited Relief is granted, the deciding body is free to consider whether to disqualify the individual on the basis of the facts and circumstances at issue with the individual’s conviction, and is also entitled to consider other relevant information, such as the effect on third parties of granting the benefit.

The second form of relief, a Certificate of Restoration of Rights, is available by petition five years after a conviction or upon the individual’s release from custody, whichever is later. To be eligible, the individual must demonstrate that: (1) they are engaged in or seeking to engage in lawful employment activity; (2) they are not unjustifiably in violation of the terms of any criminal sentence; (3) no criminal charges are pending against them; and (4) granting the petition would not pose an unreasonable risk to the safety or welfare of the public or any individual. The board or agency that issues the Certificate of Restoration of Rights is entitled to remove any collateral sanctions it finds appropriate to remove. However, sanctions relating to sex offender registration and notifications; driver’s license suspension, revocation, or eligibility; eligibility for employment in law enforcement agencies; and any sanction imposed by the state constitution which cannot be relieved by the legislature are ineligible for removal under the Act.

Notably, as with an Order of Limited Relief, decision-makers who are presented with an individual’s Certificate of Restoration of Rights still retain the ability to deny the individual the requested benefit after considering the conduct underlying their conviction.

The Act furthers the principles of judicial fairness, and provides opportunities for reintegration to individuals who are committed to rehabilitation and reintegration. Its requirements are largely procedural, designed to add transparency and clarity to a state’s existing body of criminal law.

For further information about the Model Collateral Consequences of Convictions Act, please contact ULC Legislative Counsel Jane Sternecky at 312-450-6622 or [jsternecky@uniformlaws.org](mailto:jsternecky@uniformlaws.org).





**Uniform Law Commission**  
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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## WHY YOUR STATE SHOULD ADOPT THE MODEL COLLATERAL CONSEQUENCES OF CONVICTION ACT

When contemplating a guilty plea or facing a conviction, criminal defendants are generally aware of the jail time or fines associated with these outcomes. However, many criminal defendants are not informed of the numerous disqualifications and legal disabilities (“collateral consequences”) that also accompany a conviction, such as bars to professional licenses or government housing. The Model Collateral Consequences of Conviction Act (the “Act”) requires enacting states to advise criminal defendants of the potential consequences associated with a conviction or guilty plea, and creates a new mechanism to allow relief from these consequences when appropriate. By modernizing the law on collateral consequences, the Act creates new opportunities for individuals with criminal convictions to re-enter society and provide meaningful contributions.

States should enact the Act for the following reasons:

- ***The Act promotes fairness and justice*** by requiring defendants to be notified about collateral consequences at important parts of their case.
- ***The Act adds clarity*** by requiring documentation of all collateral consequences contained in a state’s laws and regulations and provisions for avoiding or mitigating them. Furthermore, the Act requires collateral sanctions to be authorized by statute, which limits the confusion that may result from sanctions imposed by ordinance, policy, or administrative rule without notice to the public.
- ***The Act promotes successful reentry*** by removing barriers, when appropriate, to successful and productive reintegration for ex-offenders. Ex-offenders are able to seek relief from collateral consequences as early as the sentencing phase, with additional opportunities in the years following when they have demonstrated a dedication to law-abiding conduct and when the restoration of their rights would not pose an unreasonable public safety risk.
- ***The Act ensures competent representation*** by requiring the court to confirm with the defendant that their attorney has advised them of the collateral consequences associated with a guilty plea or conviction. This additional check on legal representation ensures that defendants are represented by constitutionally competent counsel.
- ***The Act permits discretionary relief*** by allowing a court or agency to remove a collateral sanction’s automatic bar and instead determine eligibility on an individual basis.

For further information about the Model Collateral Consequences of Conviction Act, please contact ULC Legislative Counsel Jane Sternecky at 312-450-6622 or [jsternecky@uniformlaws.org](mailto:jsternecky@uniformlaws.org).

**Stocco, Janet**

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**From:** Frankie Cintron <[fcintron1979@gmail.com](mailto:fcintron1979@gmail.com)>  
**Sent:** Friday, September 13, 2024 8:37 AM  
**To:** Criminal Records Review Committee  
**Subject:** Re:

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

Hello my name is Frank cintron I am trying to see who I can contact about getting some things off my record I'm sponged I have a business for the last 3 years been out of trouble for a while last 6 years or so or more trying to see about protecting my business my home my kids just seeing who I can speak to regarding the situation Thank you

On Fri, Sep 13, 2024, 8:28 AM Criminal Records Review Committee  
<[CriminalRecordsReviewCommittee@legislature.maine.gov](mailto:CriminalRecordsReviewCommittee@legislature.maine.gov)> wrote:

Dear Mr. Cintron,

Thank you for providing comments to the Criminal Records Review Committee. Your email will be shared with committee members at the next committee meeting.

The [State Bureau of Identification's website](#) has information about how an individual can obtain a copy of their criminal history record information. You can also reach them at (207) 624-7240.

Sincerely,

CRRC Staff

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**From:** Frankie Cintron <[fcintron1979@gmail.com](mailto:fcintron1979@gmail.com)>  
**Sent:** Monday, August 26, 2024 9:21 PM  
**To:** Criminal Records Review Committee <[CriminalRecordsReviewCommittee@legislature.maine.gov](mailto:CriminalRecordsReviewCommittee@legislature.maine.gov)>  
**Subject:**

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

Hello my name is Frank cintron who do I contact about my record please

Laura Chavez, Ph.D.

Director of Research and Data

The Clean Slate Initiative

## Criminal Records Review Committee

Tuesday, September 24, 2024

### Public Comment in Support of Clean Slate in Maine

To Senator Donna Bailey, Senate Chair, Speaker Rachel Talbot Ross, House Chair, and Members of the Committee:

My name is Dr. Laura Chavez and I am the Director of Research and Data at The Clean Slate Initiative - a national non-profit whose mission is to work alongside states to streamline the record-clearing process and ensure it happens automatically. I am writing on behalf of The Clean Slate Initiative to express our strong support for a Clean Slate bill in Maine, which will address and rectify the impact of past records on individuals and communities. We applaud the legislature for adopting record-sealing practices for all adults and for welcoming public comment on further Clean Slate legislative options.

As of 2019, around 300,000 adults in Maine, or 25% of the adult population, have some form of a record, and people of color are disproportionately impacted. In Maine, nearly half of Black adults have a record.<sup>1</sup> Arrest and conviction records can present significant barriers to employment, housing, education, and social reintegration. Clean Slate legislation has proven to be an effective tool in addressing these challenges by allowing eligible individuals to have their records automatically sealed, giving them a fresh start.

Nationwide, fewer than 10% of people eligible for relief under current petition-based record clearance policies actually receive it because the process is slow, requires jumping

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<sup>1</sup> See [www.cleanslateinitiative.org/data](http://www.cleanslateinitiative.org/data)



through complicated legal hoops, and can be costly for individuals who have been impacted by the legal system.<sup>2</sup> Clean Slate laws simplify and improve the process to make record clearance accessible to everyone who meets the requirements.

The necessity of Clean Slate laws becomes evident when considering the pervasive impact of criminal records. A significant majority of employers (94%)<sup>3</sup>, landlords (90%)<sup>4</sup>, and educational institutions (72%)<sup>5</sup> conduct background checks, leading to the widespread exclusion of people with records from opportunities to support themselves and their families and improve their lives.

Twelve states have enacted Clean Slate laws to date, including New York, Connecticut, and Pennsylvania, and the positive impact on individuals and communities has been substantial. Implementing similar legislation in Maine has the potential to significantly bolster public safety and stimulate economic growth.

Clean Slate policies can transform lives by increasing access to employment, stable housing, education, and community involvement. Research indicates that wages can increase by over 22% in the first year following record clearance.<sup>6</sup>

The consequences of having a record extend beyond the individual to their families and communities. Parents with records face barriers to participating in their children's education and activities, further perpetuating cycles of disadvantage. They often aren't allowed to volunteer in their children's classrooms or chaperone a school field trip. Automatic record clearance can give parents who meet the requirements a second chance to fully show up for their children.

Furthermore, the broader societal and economic impacts of excluding individuals with records from the economy are profound. The U.S. economy loses an estimated \$78-87 billion annually due to reduced workforce participation by individuals with records.<sup>7</sup> Research also shows that when people have stable jobs that pay a liveable wage, they are

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<sup>2</sup> Chien, Colleen. "America's paper prisons: The second chance gap." *Michigan Law Review* (2020): 519-611.

<sup>3</sup> Nelson, Ariel. "Broken records redux: How errors by criminal background check companies continue to harm consumers seeking jobs and housing." *National Consumer Law Center*. (2019).

<sup>4</sup> Ibid.

<sup>5</sup> Stewart, Robert and Christopher Uggen, "Criminal records and college admissions: A modified experimental audit." *Criminology*, 58(1), 156-188, (2019).

<sup>6</sup> Prescott, J. J., and Sonja B. Starr. "Expungement of criminal convictions: An empirical study." *Harv. L. Rev.* 133 (2019): 2460.

<sup>7</sup> Bucknor, Cherrie and Alan Barber. "The price we pay: Economic costs of barriers to employment for former prisoners and people convicted of felonies." *Center for Economic and Policy Research*. (June, 2016).

much less likely to engage in illegal behavior.<sup>8</sup> By enabling eligible individuals to clear their records automatically, Clean Slate laws not only support personal and familial stability but also contribute to healthier communities and a stronger economy.

The petition-based sealing process is complex and costly. We remain steadfast in our advocacy that a state-initiated record clearance process, where records are cleared automatically upon meeting the eligibility criteria, can be more cost-effective and deliver greater economic impact. Clean Slate laws streamline the sealing process, reduce bureaucratic hurdles, and ensure equitable access to justice for all individuals seeking redemption.

The Clean Slate Initiative is ready to assist The Pine Tree State as lawmakers contemplate going for more. Our organization, along with our state and national partners, can offer assistance in drafting sample legislation, reviewing technical feasibility, and developing the most practical and cost-effective processes for achieving automation in record clearance.<sup>9</sup> We welcome the chance to support Maine lawmakers in crafting legislation that builds upon identified best practices and approaches from states that have passed similar legislation, ensuring any policy enacted can be implemented and performs as the legislature intends.

Thank you for your time and consideration. I am available to answer any questions or provide additional information as needed.

Sincerely,

Laura Chavez, Ph.D.

Director of Research and Data, The Clean Slate Initiative

[lchavez@cleanslateinitiative.org](mailto:lchavez@cleanslateinitiative.org)

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<sup>8</sup> See LaBriola, Joe. "Post-prison employment quality and future criminal justice contact." *RSF: The Russell Sage Foundation Journal of the Social Sciences* 6, no. 1 (2020): 154-172

<sup>9</sup> See CSI's Data Dashboard at [www.cleanslateinitiative.org/data](http://www.cleanslateinitiative.org/data) to learn more about legislative design and impact.