

CREATING MODEL LEGISLATIVE RELIEF FOR PEOPLE WITH PAST CONVICTIONS



ALLIANCE FOR
SAFETY AND **JUSTICE**





EXECUTIVE SUMMARY

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Across the United States, popular support for criminal justice reform is at an all-time high. More and more Americans of all walks of life agree that the “tough-on-crime” era resulted in bloated, costly and ineffective corrections practices. Today, everyday people and public officials across the political spectrum support a balanced approach to public safety – one that emphasizes crime prevention and rehabilitation to stop the cycle of crime.

As states re-examine their crime policies, it is critical to also review the lifetime impacts of criminal records in preventing full rehabilitation for millions of Americans. Meaningful rehabilitation provides people that complete their sentences and remain crime-free redemption and full re-integration into the economy, our communities and civic society. Despite growing support for rehabilitation as a primary goal of corrections, few Americans will ever become rehabilitated because criminal records prevent inclusion.

More than 70 million Americans have a criminal record. Long after they’ve paid their debts to society, many will find themselves caught in a labyrinth of legal prohibitions and barriers that have little to do with public safety.¹ These restrictions place undue burdens on millions of people and impose an invisible, life-long sentence that can make it difficult to get back to work, find housing, or support their families. These barriers can also make it harder—not easier—to stay out of the cycle of crime.

As a nation, we’ve only begun to grapple with the impacts of these barriers on our society. These restrictions prevent millions of people with past convictions from getting work, which in turn may lead to families in living in unstable housing or contribute to homelessness, and to millions of children growing up with parents that cannot fully contribute to their families, or our economy.

Some states have taken steps to limit the debilitating impacts of criminal records on economic productivity and family

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We are an unforgiving society. If you borrow money from a bank and you pay it off, your debt is forgiven. If you get convicted of a crime in the criminal justice system, be it federal or state, **you pay for the rest of your life, and it’s not fair.**

JUDGE STERLING JOHNSON, JR., U.S. DISTRICT COURT, EASTERN DISTRICT OF NEW YORK¹⁸

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stability after a person’s time is served. But most current law, policies and processes fall short of bringing widespread relief, for these reasons:

- **Few people are aware that post-conviction relief exists.** Even when state law allows people to expunge their records after sentence completion, few do. Research shows that this is due to a lack of awareness. *Most people don’t realize they can clean their records.*

In 2014, the U.S. lost

1.7 TO
1.9 MILLION

workers to restrictions based on conviction records. This loss to the workforce adds up to a loss of as much as

\$87 BILLION in GDP.¹⁹



- **Many hurdles stand in the way of obtaining relief.**

Onerous petition-based approaches to expungement or record change after sentence completion are a serious obstacle. Few people with past convictions can afford legal advisors and most will have difficulty taking time off from work to visit police stations and courthouses to complete the legal paperwork.

- **Many relief reforms are too limited, too few people are eligible for them and they take years to kick in.** Post-conviction reforms rarely go far enough to help people truly reintegrate into society after sentence completion. Some forms of relief aren't timely or broad enough to cover the millions of people with old records, and others come with loopholes that open the door to exclusion or discrimination. Many provide relief only after many years have passed since the person has completed all terms of the sentence.

This brief offers guidelines for legislation that would begin to make rehabilitation meaningful and provide relief for people with past convictions so they can contribute to the economy and society as a whole. To be effective—and keep communities safe—such legislation addressing past convictions should adhere to the following principles:

- **The process should provide an automatic record relief mechanism.** In most places, the burden rests on the individual to change the status of an old record; this should be replaced by an automatic process that uses a standard operating procedure to expunge or seal past arrests or convictions. This kind of process to “sunset” arrests and convictions is the fairest and most efficient way to

reduce barriers to success. Over time, it will also be more cost-effective for governments than the current arduous procedures that consume precious courtroom labor and hours.

- **Relief must come at—or very soon after—the end of a sentence.** Too often, people must wait years after completing their sentences to begin the process of clearing their records. Legislative relief should establish a timeframe that eliminates this waiting period to maximize people's capacity to get to work and stabilize their families.
- **Relief can be focused to maximize safety.** Post-conviction prohibitions or barriers should pass an evidence-based threshold: *If the prohibition placed on a person after sentence completion does not have a clear nexus with evidence on what enhances public safety, it should not be the law.* Reforms to reduce debilitating prohibitions on people living with past convictions can make exceptions for designated types of crimes, and make records available to certain government agencies and employers, particularly those that work with vulnerable populations (schools, nursing homes, etc.).
- **Relief must extend to a wide spectrum of offenses.** Relief should not be reserved for people with misdemeanors or infractions, the lowest crime level categories. To improve public safety, reduce recidivism and support families, people living with past convictions for felony offenses—even violent offenses—that have completed their sentences and returned to society should also have access to post-conviction relief, *unless there is an explicit public safety reason that they should not.*

The first step for policymakers interested in moving toward a more evidence-based, safety-centered legal model for removing the barriers imposed by past arrests or convictions is to ask key questions about how current laws, policies and practices are working. Specifically, policymakers should:

- **Review current restrictions that people living with past convictions face.** Analyze the current laws restricting people living with past convictions from stabilizing factors such as employment, professional or occupational licensing, professional trade certifications, housing, financial loans, volunteer certifications, educational programs or certifications, sports or entertainment licenses, and beyond. Do these restrictions improve public safety?
- **Review the efficiency of current relief processes.** Analyze the current relief protocol and ask key questions: How many people who are already eligible for this relief

are actually completing the process? What could make the legal process less burdensome on both the courts and the petitioners? How feasible is it for someone with a past record who has completed their sentence and remained crime-free to expunge or seal their record?

- **Determine how criminal record data are shared and assess current limits on sharing this information.**

Policymakers need to understand how government, employers, credit reporting agencies and the public can access records, review current restrictions on this access, and ask, “What is truly necessary to meet public safety goals?”

- **Provide protections from discrimination or exclusion for people with past records.**

People with past convictions can face all sorts of challenges around obtaining housing, employment and participating in the community that have been, and can be discriminatory. Directing agencies to examine all practices that might make it harder for someone to access a service solely because they have a record would go a long way to deal with unintended discriminatory impacts.

- **Reexamine laws that mandate prior conviction enhancements in sentencing.**

Research shows that applying aggravating factors or enhancements in sentencing based on a person’s criminal history and past convictions have little to no impact on public safety; they can, however, lead to longer sentences and unnecessary incarceration spending. Lawmakers should review the impact previous convictions can have in mandating longer sentences, and evaluate whether a sentence enhancement improves public safety.

Ultimately, policymakers should ensure that *any lasting impacts of a criminal record on people living with past convictions have a clear nexus to public safety and are limited in scope to solely focus on that compelling public safety need.*

These model policy legislation guidelines are grounded in the latest research, which draws a clear, positive line connecting post-conviction relief to safer, more prosperous communities.

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A criminal’s case, it really is kind of a contract: I literally make an offer, your attorney accepts or you accept, and then there’s consideration given. There’s time given, there’s probation given, parole, whatever the case may be. But once it’s completed, the contract is now null and void. Why does it keep going? But instead [we] say, **‘You’ve done everything right. You’ve obeyed all the laws. You’ve completed probation and parole. But [the system is] going to punish you for the rest of your life. And you’re going to be a felon for the rest of your life.’** That was never the deal.

TORI VERBER SALAZAR, DISTRICT ATTORNEY, SAN JOAQUIN COUNTY, CALIFORNIA²⁰

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OHIO

JOBLESSNESS LED TO HIS OVERDOSE: ALEX'S STORY



My son Alex was 26 years old when he died of a drug overdose. I think his criminal record, and the joblessness that it caused, led to his death.

Alex could not even get a job at the local dollar store because of his record.

I believe with all my heart that Alex would be alive today if he could have found a job, and had been given the opportunity to turn his life around.

Alex grew up in Medina County, Ohio, where he was a typical boy. In elementary school, he had perfect attendance four out of six years. He played baseball for 12 years. He was a talented trumpet player and taught himself to play guitar. He loved music and was also a talented artist. He cared deeply about the people that he loved, and he would do anything to help a friend or a stranger.

We knew Alex had addiction issues, and as a family, we struggled with that. But when Alex was working, he was improving. In one job he had, he earned the owners trust and drove a large truck with a spit on the back of it. We could see that when Alex was working, he would stop by the house more frequently: Alex was happy, and he had purpose.

During the time when he was struggling with addiction, Alex was arrested and convicted of a felony for drug possession. Once Alex got to a better place with his recovery and was able to function normally, he could not get a job because of his felony conviction.

Alex could not even get a job at the local dollar store because of his record.

I believe with all my heart that Alex would be alive today if he could have found a job, and had been given the opportunity to turn his life around.

We need to have laws in place that automatically remove the barrier that a record can create on someone resulting in their inability to work, get housing and go to school. People suffering from addiction like my son Alex should not be branded with a felony record for life. We want our loved ones to be successful and the felony conviction puts up barriers to opportunity.

— Story told by Charles “Chip” Jenkins, father of Alex



THE LIFETIME IMPACT OF A PAST CRIMINAL RECORD

More than 70 million people have a criminal record.² Most were convicted of misdemeanor or low-level felony offenses, never served time in prison, and have lived crime-free for years or even decades.

Yet, despite having paid their debt to society, many people with past convictions end up serving a rarely acknowledged second sentence: a wall of nearly 48,000 legal roadblocks that thwarts their best efforts to move forward in their lives.³ In some cases these restrictions make sense. But most have nothing to do with public safety and do far more harm than good. At a minimum, these restrictions prevent millions of people with past convictions from getting work, which in turn may lead to families living in unstable housing or contribute to homelessness, and to millions of children growing up with parents that cannot fully contribute to their families or our economy. Some studies have shown this country loses of tens of billions of dollars in economic growth because people with past convictions are prevented from getting jobs.

The barriers people with past convictions face that directly undermine community safety and well-being include:⁴

- **Barriers to Employment.** People excluded from employment opportunities are more likely to fall into the cycle of crime that undermines community safety and well-being.
- **Barriers to Stable Housing.** Private landlords and public housing projects often avoid renting to people with past convictions, who are not a protected class under the Fair Housing Act.
- **Barriers to Education.** People with past convictions face discriminatory college admissions and financial aid practices.

These barriers disproportionately affect people of color, who, due to systemic discriminatory practices, face higher rates of arrest, conviction and sentencing relative to others who have committed similar offenses. The negative influence of these barriers is felt beyond the individual affected: When someone is denied a second chance to provide for his or her family, the entire community bears the social and economic impact. These barriers even impact future generations—at least 33 million children in the United States now have at least one parent with a record.⁵

THE LIMITATIONS OF CURRENT FORMS OF CONVICTION RELIEF

Research shows people who have paid their dues to society are less likely to return to crime and more likely to contribute to the stability of their families and communities—if they are not burdened by needless barriers that make people more likely, not less—to engage in crimes.⁶

Some states have taken steps to limit the debilitating impacts of criminal records on economic productivity and family stability after a person's time is served. These reforms include

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There are collateral damages that come along with having a criminal record. **We want to create a process that gives folks a serious second chance** so [they] don't have to walk around with a scarlet letter on their chest for the rest of their lives.

STATE REP. JORDAN HARRIS, PENNSYLVANIA (D)²¹

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efforts to reduce the tens of thousands of laws that ban people from obtaining occupational and business licenses for solid, middle-class jobs in construction, cosmetology and barbering.⁷ Many states are also passing laws that allow more people to expunge—or eliminate from official records—past criminal convictions. A new, groundbreaking University of Michigan study has found that people who get expungements see their wages go up by more than 20 percent on average within two years and break the law even less often than the general adult population.⁸

But most current law, policies and processes fall short of bringing widespread relief, for these reasons:

- **Few people are aware that post-conviction relief exists.**

Even when state law allows people to expunge their records after completing their sentence, few do. Research shows that this is due to a lack of awareness. Most people don't realize they can “purge” their records. In California, for example, after Proposition 47 reclassified certain felonies to misdemeanors, advocates conducted a massive public education campaign to encourage people to determine their eligibility and take advantage of the law. Yet, even with a statewide push that included free legal clinics, only about 350,000 Californians—20 percent of those eligible—filed petitions to have their records changed.⁹ A study from the University of Michigan confirmed what was learned on the ground: Most people don't realize they can expunge or seal

their records.¹⁰

- **Many hurdles stand in the way of obtaining post-conviction relief.** Onerous petition-based approaches to expungement or record change after sentence completion are a serious obstacle. Few people with past convictions can afford legal advisors and most will have difficulty taking time off from work to visit police stations and courthouses to complete the legal paperwork. As a result, only 6.5 percent of people who are legally eligible for expungement complete the process within five years of eligibility, and more than 90 percent don't even apply.¹¹ As the University of Michigan researchers noted, *“when the state makes it too hard or costly for citizens to exercise a right or opportunity, it's not that different from denying that right or opportunity.”*
- **Many relief reforms are too limited, too few people are eligible for them, and they take years to kick in.** Post-conviction reforms rarely go far enough to help people truly reintegrate into society after they have completed their sentences. Some forms of relief are often not accessible until years after someone is convicted of a crime, or broad enough to cover the millions of people with old records crossing various offense categories, and others come with loopholes that open the door to exclusion or discrimination.

According to a recent survey:

72% percent of U.S. employers use background checks to screen applicants. Many are unwilling to hire people with records.²²





PROMISING
POLICIES

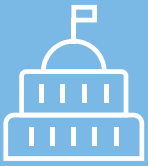
A NEW WAVE OF RELIEF REFORM: PROMISING STATE POLICIES

“Ban the Box” legislation eliminating inquiries about a job applicants histories was an important first step.

California’s Proposition 47 broke new ground by enabling hundreds of thousands of people with certain nonviolent felony convictions to go a step further, by clearing or changing their records. However, *millions of others with past convictions still need some form of relief.*

Today, more states and cities are passing legislation to lower the legal barriers for people with criminal records. Below are five examples of recently passed, currently pending, or recently considered relief legislation:

- **Pennsylvania Act 56.**¹² Act 56, which became law in 2018 and took full effect in 2019, was the nation’s first reform establishing the automatic sealing of criminal records. It created an automated computer process to seal arrests that did not result in convictions within 60 days, summary convictions after 10 years, and some misdemeanor convictions if the person has stayed out of trouble and paid all fines and costs for a period of 10 years after time of conviction.
- **Utah HB 431.**¹³ This new law, signed by the governor in March, creates an automatic expungement process for low-level criminal records and is expected to help reduce the state’s six-month backlog of record change applications.
- **California AB 1076.**^{14,15} This bill would automatically clear arrests that did not result in a conviction and expunge misdemeanors and minor felonies after completion of a sentence. By requiring no action from a petitioner, it would reduce a significant barrier to employment and housing for millions of Californians. Records would be scrubbed from view by landlords, most employers and educational institutions, with some exceptions, while remaining visible to law enforcement and other justice agencies.
- **Connecticut SB 691.**¹⁶ This bill would have automatically erased convictions for misdemeanor offenses three years after sentences have been completed. For qualifying nonviolent felony offenses, the records would have been scrubbed after five years. This bill would have also automatically cleared the records of people who were arrested but not convicted of crimes.
- **Michigan (Forthcoming).** This six-bill package being introduced this year contains a number of reforms to the state’s expungement law, including the automatic expungement of certain conviction records if those convictions are not for assaultive offenses or serious misdemeanors.



GUIDELINES FOR
LAWMAKERS

DEVELOPING A MODEL STATE LAW: GUIDELINES FOR LAWMAKERS

With other leading advocates, the Alliance for Safety and Justice has been on the forefront—and in the trenches—of the next wave in conviction relief legislation.

Below are guidelines for lawmakers interested in creating or expanding legislation that delivers a true second chance for people with records while keeping communities safe and growing the economy. This approach accounts for on-the-ground political realities as well as the practical complexities involved in guiding reentry for millions of Americans with criminal records.

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I’m a recipient of second chances.
I believe that **people make mistakes
and there’s opportunities to change,**
and that needs to be recognized.

KIM REYNOLDS, IOWA GOVERNOR (R)²³

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THE PROCESS SHOULD PROVIDE AN AUTOMATIC RECORD RELIEF MECHANISM.

To succeed, reforms must establish a mechanism for true relief. This means removing the burden on the individual and

instituting a standard operating procedure that removes arrests and convictions automatically: A process to “sunset” arrests and convictions is the fairest and most efficient way to reduce barriers to success.

Making relief automatic also means improving—and streamlining—the systems that hold criminal records. Currently, most criminal records systems are structured to facilitate the tracking of individual cases; few systems aggregate all cases associated with an individual. As a result, it is hard for people to clear their entire records, including old warrants. Changing data systems so records can be aggregated by each person or petitioner (and not just by each case) will help unify the patchwork of overlapping local criminal justice systems and reduce the likelihood of clerical error. It will also streamline the expungement process and cut court costs, including for district attorney offices and public defender services.

Over time, moving to a process that is automatic and streamlined will also be more cost-effective for governments than the current arduous procedures individuals must undertake that consume precious courtroom labor and hours.

RELIEF MUST COME AT—OR VERY SOON AFTER—END OF SENTENCE.

Research shows that recidivism is most likely to occur within the first year after a sentence is completed. This is the period when people most need support services, a foothold



CALIFORNIA

STRUGGLING TO FIND A PLACE CALLED HOME: TERRANCE'S STORY

When I was first released from prison, I stayed with family while attending community college. It was when I transferred to UC Riverside that my long struggle with housing began.

Married, with a newborn, I put in dozens of applications, trying to find a place to rent. Each time I was refused because of my past record. The application fees added up quickly. At times I had to choose between paying another application fee and eating.

I talked to some fair-housing advocates, but they told me that because of my past convictions, I wasn't a protected group. In other words, landlords could legally discriminate against me.

I really didn't want a hand out. I just wanted an opportunity to take care of my family.

Then came a break—a room became available in a house. Then my number came up on the wait list for student family housing. That held us until I graduated with a master's degree in education. Then I was back looking for a place again. I soon found out that my new job as a community organizer and my long list of leadership accomplishments meant nothing to landlords who continued to turn me away because of my past conviction.

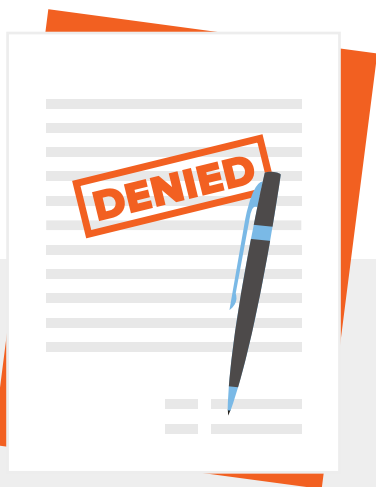
I was going to rental places with awards and plaques under my arm. None of that mattered. I felt bad for my wife and children. My family never committed a crime. The crime I was convicted of is old. I wasn't the same person I was then that I am now.

I was forced to deal with slumlords. My family lived in rentals infested with roaches and rodents until a connection at work helped me find something better.

Years after the passage of Proposition 47, my record still has not been expunged. To apply, I'd have to take a lot of time off work to gather the paperwork from multiple county offices. Meanwhile, my family is confronting a new challenge: our effort to adopt a young nephew has been held up because of my record.

I don't want to live my life with this criminal conviction forever. This is my story, but there's thousands of stories like mine. That's why we need an automatic process to remove a conviction from someone's record, and give them a chance to move on.

I soon found out that my new job as a community organizer and my long list of leadership accomplishments meant nothing to landlords who continued to turn me away because of my past conviction.



79% of formerly incarcerated people or their family members have been denied housing because of their record.²⁴

in housing and workforce opportunities. At least 36 states have expungement laws on the books, but people must often wait years after completing their sentences to begin the complicated process of clearing their records.

Legislative relief should establish a timeframe that eliminates this waiting period to maximize people's capacity to get to work and stabilize their families.

RELIEF CAN BE FOCUSED TO MAXIMIZE SAFETY.

Post-conviction prohibitions or barriers should pass an evidence-based threshold: *If the prohibition placed on a person after sentence completion does not have a clear connection to evidence that enhances public safety, it should not be law.* Reforms to reduce debilitating prohibitions on people living with past convictions can make exceptions for designated types of crimes, and make records available to certain government agencies and employers, particularly those that work with vulnerable populations. A focused, targeted approach to relief could include:

- Exceptions for designated types of crimes;
- Making records available to certain government agencies and employers, particularly those working with vulnerable populations (schools, nursing homes, etc.);
- Sunsetting certain records after a designated period of time.

RELIEF MUST EXTEND TO A WIDE SPECTRUM OF OFFENSES.

If the data and research suggest that someone with a past conviction will, with the right help, be unlikely to commit another crime, that person should be able to find some relief. Otherwise, the system risks pushing someone to the margins of society where they will be at greater risk of a series of negative outcomes, including committing new crimes.

Over the past decade, lawmakers have been revisiting long sentences for people convicted of various types of crimes. But because criminal records stretch back years and even decades, they can reflect older and harsher laws and practices that the public and crime survivors are now reevaluating. For example, a recent study found that crime survivors, by a two to one margin, prefer authorizing judges to determine sentence lengths based on individual circumstances and best practices, rather than applying mandatory requirements for certain sentence lengths.¹⁷ Relief efforts should reflect these changing priorities from the public and crime survivors.

Relief should not be reserved only for people with misdemeanors or infractions, the lowest crime level categories. To improve public safety, reduce recidivism and support families, people living with past convictions for felony offenses—even for violent offenses—that have completed their sentences and returned to society should also have access to relief, unless there is an explicit public safety reason that they should not.

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You have to hire an attorney. You have to petition the court. You have to come for a hearing. **It's a very expensive and very cumbersome process.**

GEORGE GASCÓN, DISTRICT ATTORNEY OF SAN FRANCISCO²⁵

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FIRST STEPS POLICYMAKERS CAN TAKE TOWARDS LEGISLATION.

Policymakers in states where post-sentencing relief legislation does not yet fit the model guidelines described above can take immediate steps to lay the groundwork for developing more comprehensive bills and alternative paths to relief. These steps would identify current policies, probe whether they are working as well as they could, and use what they learn to develop model laws around relief.

Policymakers should:

- **Review current restrictions that people living with past convictions face.** Analyze the current laws restricting people living with past convictions from stabilizing factors such as employment, professional or occupational licensing, professional trade certifications, housing, financial loans, volunteer certifications, educational programs or certifications, sports or entertainment licenses, and beyond. Do these restrictions have a connection to public safety?
- **Review the efficiency of current relief restrictions.** Analyze the current expungement protocol and ask key questions: How many people who are already eligible for this relief are actually completing the process? What could make the legal process less burdensome on both the courts and the petitioners? How feasible is it for someone with a past record who has completed their sentence and remained crime-free to expunge or seal their record?
- **Review how criminal record data are shared and what limits can be set on sharing this information.** Policymakers should review how government, employers, credit-reporting agencies and the public can access records. They should also know what restrictions exist (or do not) and assess what is truly necessary to meet public safety goals. Key questions might include: How does the public access

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A criminal record should not be a life sentence to unemployment, underemployment and poverty.

STATE SEN. GARY WINFIELD, CONNECTICUT (D)²⁶

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criminal record information, or how do credit-reporting agencies that conduct background checks use and share the data they collect? Are there restrictions that prohibit employers from asking about or considering convictions in hiring and that protect people from having to respond? Do government employers have access to data that the public doesn't?

- **Provide protections for people with past records from discrimination or exclusion.** People with past convictions face all sort discriminatory challenges around obtaining housing, employment and participating in the community. Directing agencies to examine all practices that might make it harder for someone access a service solely because they have a record (and are unrelated to a public safety issue) would go along way to protect the rights of people with past convictions.
- **Reexamine laws that mandate prior conviction enhancements in sentencing.** Research shows that applying aggravating factors, or enhancements based on criminal history to sentences has little to no impact on public safety and results in longer sentences and unnecessary spending on incarceration. Lawmakers should review the impact a past conviction can have in mandating a longer sentence and ask whether the enhancement improves public safety.

ESTIMATED FELONY CONVICTIONS OF...



ALL U.S. ADULTS²⁷

8%



AFRICAN-AMERICAN ADULT MEN²⁸

33%





WHY IS AN *AUTOMATIC* RECORD RELIEF SYSTEM NEEDED?

California's Proposition 47 broke new ground by enabling hundreds of thousands of people with certain nonviolent felony convictions to go a step further by clearing or changing their records. Advocates organized a massive public education campaign, and free legal clinics to help people with past convictions through the record change process. But only about 350,000 Californians—20 percent of those eligible—filed petitions to have their records changed. More than 8 million Californians are estimated to have a record that limits their ability to work and obtain housing.

Removing the burden on the individual to try to clear their own record, and building a process that automatically removes past arrests and convictions is the fairest and most efficient way to reduce barriers to success.



CONCLUSION

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A fundamental value driving the growing support for criminal justice reform is rehabilitation.

Americans believe in redemption and second chances, to restore people that complete their sentences and repay their debts as members of our communities and our larger society.

Yet, as criminal justice reform advances, millions of Americans with criminal records remain trapped in a lifetime of exclusion and punishment that contradicts these core values

and serves no underlying public safety purpose. People that have completed their sentences and remain crime free have rehabilitated themselves, but laws do not reflect that. Now is the time to make rehabilitation meaningful: allow for true record relief so Americans with past records can become fully contributing members of our society.

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We want a system that protects public safety, is based on equal rights and equal justice, ensures that the **punishment is proportional and fits the crime, and gives people real second chances.**

MARK V. HOLDEN, SENIOR VICE PRESIDENT & GENERAL COUNSEL, KOCH INDUSTRIES, INC.²⁹

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ABOUT THE ALLIANCE FOR SAFETY AND JUSTICE.

Alliance for Safety and Justice (ASJ) is a national organization that aims to win new safety priorities in states across the country, and brings together diverse crime survivors to advance policies that help communities most harmed by crime and violence.

ACKNOWLEDGMENTS AND AUTHORS.

Creating Model Legislative Relief for People with Past Convictions was authored by Lenore Anderson, John Cutler, Jay Jordan, Robert Rooks and Jason Ziedenberg.

The authors acknowledge the work of Lisa Chen, Christine Kamarangi, Robin Campbell, Jen Brower and Ann Harrington for assisting with the editing and design of this brief.

HELPING THE FIELD MOVE TOWARD MODEL POLICIES: TECHNICAL ASSISTANCE

Our approach continues to evolve as we learn from our state-based work and from our colleagues in the field. The Alliance for Safety and Justice can provide technical assistance to support your efforts to move toward model relief for people with past convictions policies in your community. For more information, visit <https://allianceforsafetyandjustice.org/>

ENDNOTES

- 1 For a more in-depth exploration of the impact of past convictions, see Karamagi, C., Teji, S., & Vishnu Sridharan., V. (2018). *Repairing the Road to Redemption in California* (p.2). Oakland: Californians for Safety and Justice. Retrieved from <https://safeandjust.org/interactivereport/repairing-the-road-to-redemption-in-california/>
- 2 Vallas, R., & Dietrich, S. (2014). *One Strike and You're Out: How We Can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records*. Washington, D.C.: Center for American Progress. Retrieved from <https://cdn.americanprogress.org/wp-content/uploads/2014/12/VallasCriminalRecordsReport.pdf> Note from Center for American Progress: The Department of Justice reports that over 100 million Americans have state criminal history records on file. Some organizations, such as the National Employment Law Project, or NELP, have contended that this figure may overestimate the number of people with criminal records, as individuals may have records in multiple states. NELP thus suggests reducing the DOJ figure by 30 percent, which with 2012 data yields an estimate of 70.3 million individuals with criminal records. However, NELP concedes that this figure is almost certainly an underestimation. For the DOJ data, see U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. (2018). *Survey of State Criminal History Information Systems, 2016* (p. Data Table 1). U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Retrieved from <https://www.ncjrs.gov/pdffiles1/bjs/grants/251516.pdf>. For a discussion of NELP's methodology that yields a more conservative estimate using 2008 data, see Rodriguez, M., & Emsellem, M. (2011). *"65 Million 'Need Not Apply': The Case For Reforming Criminal Background Checks For Employment"*. New York: National Employment Law Project. Retrieved from https://www.nelp.org/wp-content/uploads/2015/03/65_Million_Need_Not_Apply.pdf
- 3 National Inventory of Collateral Consequences of Conviction ("NICCC"). (2019). Retrieved from <https://niccc.csgjusticecenter.org/>
- 4 Karamagi, C., Teji, S., & Vishnu Sridharan., V. (2018). *Repairing the Road to Redemption in California* (p.2). Oakland: Californians for Safety and Justice. Retrieved from <https://safeandjust.org/interactivereport/repairing-the-road-to-redemption-in-california/>
- 5 Vallas, R., Boteach, M., West, R., & Odum, J. (2015). *Removing Barriers to Opportunity for Parents With Criminal Records and Their Children: A Two-Generation Approach* (p.1). Washington: Center for American Progress. Retrieved from <https://cdn.americanprogress.org/wp-content/uploads/2015/12/09060720/CriminalRecords-report2.pdf>
- 6 Karamagi, C., Teji, S., & Vishnu Sridharan., V. (2018). *Repairing the Road to Redemption in California*. Oakland: Californians for Safety and Justice. Retrieved from <https://safeandjust.org/interactivereport/repairing-the-road-to-redemption-in-california/>
- 7 California — National Inventory of Collateral Consequences of Conviction ("NICCC"). (2019). Niccc.csgjusticecenter.org. Retrieved from <https://niccc.csgjusticecenter.org/>; The Council of State Governments. (2015). *The Consideration of Criminal Records in Occupational Licensing* (p. 1). The Council of State Governments. Retrieved from <https://csgjusticecenter.org/wp-content/uploads/2015/12/TheConsiderationofCriminalRecordsinOccupationalLicensing.pdf>
- 8 Prescott, J., & Starr, S. (2019). Expungement of Criminal Convictions: An Empirical Study. *SSRN Electronic Journal*. doi: 10.2139/ssrn.3353620 Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620
- 9 According to the Judicial Council of California, as of December 2018, there have been 358,555 reported petitions for resentencing and/or reclassification under Proposition 47 filed. See ["Proposition 47 Filings: November 2014 – December 2018"](https://www.courts.ca.gov/prop47.htm) at Proposition 47: The Safe Neighborhoods and Schools Act. (2019). Retrieved from <https://www.courts.ca.gov/prop47.htm>
- 10 Prescott, J., & Starr, S. (2019). Expungement of Criminal Convictions: An Empirical Study. *SSRN Electronic Journal*, 19. doi: 10.2139/ssrn.3353620 Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620
- 11 Prescott, J., & Starr, S. (2019). Expungement of Criminal Convictions: An Empirical Study. *SSRN Electronic Journal*. doi: 10.2139/ssrn.3353620 Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620
- 12 Pennsylvania Clean Slate Act of 2018, P.L. 402, No. 56. See https://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2018&sessInd=0&act=56&mobile_choice=suppress

- 13 H.B. 43. Expungement Act Amendments. General Session 2019. (UT 2019) See <https://le.utah.gov/~2019/bills/static/HB0431.html>
- 14 A.B. 1076. Criminal records: automatic relief. Regular session 2019-2020. (CA 2019). See https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1076
- 15 For another California bill introduced that would advance record change, see A.B. 972. Proposition 47: resentencing. Regular session 2019-2020. (CA 2019). See https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB972
- 16 *S.B. 619. An Act concerning erasure of certain misdemeanor criminal records. And expedited pardons review for certain felony offenses. Session Year 2019. (CT 2019).* See https://cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=SB00691&which_year=2019
- 17 California Crime Survivors Speak: A Statewide Survey of California Victims' Views on Safety and Justice 4-5 (Californians for Safety and Justice) (2019), <https://cssj.org/resources/document-a-statewide-survey-of-california-victims-views-on-safety-and-justice>
- 18 ABA Criminal Justice Section, Collateral Consequences as a Barrier to Reentry, A Dialogue with Stakeholders. See <https://www.youtube.com/watch?v=5WWGi-DkElc>
- 19 Bucknor, C., & Barber, A. (2016). The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies. Washington D.C.: Center for Economic and Policy Research. Retrieved from <http://cepr.net/images/stories/reports/employment-prisoners-felonies-2016-06.pdf>
- 20 Center for American Progress. (2018). Clean Slate: Unlocking Opportunity Through Automatic Record-Clearing. Retrieved from <https://www.americanprogress.org/events/2018/11/02/460515/clean-slate-new-bipartisan-solution-close-second-chance-gap/>
- 21 Harris: People Deserve a Second Chance. (2015). Retrieved from <https://www.youtube.com/watch?v=VpMzaklr61Q>
- 22 Duane, M., La Vigne, N., Lynch, M., & Reimal, E. (2017). Criminal Background Checks|Impact on Employment and Recidivism (p. v). Urban Institute. Retrieved from <http://www.urban.org/research/publication/criminal-background-checks-impact-employment-and-recidivism>
- 23 Chapin, D. (2019). Iowa Governor Proposes “Second Chance” For Voters With Felony Convictions. Retrieved from <https://editions.lib.umn.edu/electionacademy/2019/01/16/iowa-governor-proposes-second-chance-for-voters-with-felony-convictions/>
- 24 deVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). Who Pays? The True Cost of Incarceration on Families (p. 26). Oakland: Ella Baker Center. Retrieved from <http://ellabakercenter.org/sites/default/files/downloads/who-pays.pdf>
- 25 Schwartz, M. (2019). San Francisco To Expunge Thousands of Marijuana Convictions. NPR. Retrieved from <https://www.npr.org/2019/02/26/698045482/san-francisco-to-expunge-thousands-of-marijuana-convictions>
- 26 Kramer, J. (2019). Giving CT criminals a ‘clean slate’ gets new push. Ctpost. Retrieved from <https://www.ctpost.com/local/article/Giving-CT-criminals-a-clean-slate-gets-new-13792545.php>
- 27 Shannon, S., Uggen, C., Schnittker, J., Thompson, M., Wakefield, S., & Massoglia, M. (2016). The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010. *Demography*, 54(5), 1795-1818. doi: 10.1007/s13524-017-0611-1
- 28 Ibid
- 29 Alliance for Safety and Justice, Americans for Prosperity Ohio, & The Buckeye Institute. (2019). Building on Ohio’s sentencing changes to keep prison populations in check (p. 2). Alliance for Safety and Justice. Retrieved from https://allianceforsafetyandjustice.org/wp-content/uploads/2019/03/OhioReport-Booklet-FINAL_PREVIEW-PAGES.pdf

