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R SHEET ON

CLEAN SLATE RECORD SEALING AND EXPUNGEMENT

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BACKGROUND

Five decades of “get tough on crime” policies penalizing drug possession, use, abuse, dependence and distribution have resulted in a [500 percent](#) increase in our carceral populations.

Since the War on Drugs, exponentially more people were arrested, convicted and sentenced to prison, often for far longer sentence lengths. Approximately [half](#) of the federal prison population is serving time for a drug offense, though most are not major players in the drug trade and most have no prior violent convictions.

After a sentence has been served and all legal responsibilities have been satisfied, individuals continue to face barriers to successful reentry that prevent them from ever fully participating in society as a free citizen. [One of every three](#) Americans currently has a criminal record that inhibits their ability to secure and maintain employment that is sufficient to provide the stable housing and income required to support themselves and their dependents.

While some states provide record sealing and expungement mechanisms, the process is complex and costly, resulting in only a fraction of those eligible pursuing this critical avenue to restoring access to resources needed for basic human survival.

However, a bipartisan, bicameral group of lawmakers led by Reps. Lisa Blunt-Rochester (D-Del.) and Guy Reschenthaler (R-Pa.) along with Sens. Bob Casey (D-Pa.) and Joni Ernst (R-Iowa) have introduced federal legislation—the Clean Slate Act, [H.R. 2864](#) and [S. 1380](#)—which would provide an avenue for automatic federal record sealing and expungement for certain offenses, necessarily building on the existing petition and state-based alternatives.

Clean slate record sealing and expungement, or “clean slate,” offers people a second chance by sealing their criminal records after they have been crime-free for a certain number of years. [Research](#) demonstrates the efficacy of the policy in improving employment opportunities and

SUMMARY

- Clean slate is a policy model that would automatically seal criminal records for qualified candidates.
- Sealed records make it easier for individuals to obtain the basic education, employment and housing resources they need to remain law-abiding.
- Detractors fear such legislation puts employers, landlords and the general community unnecessarily at risk.
- Research supports the efficacy of clean slate legislation in bolstering individual opportunities and local and national economies with no additional threat to public safety.

increased wage earnings while preserving public safety. After a certain period of time, individuals with expunged records are no more likely to commit crime compared to the general population and they have extremely low rates of reoffending.

CURRENT DEBATE

[Seventy-one percent](#) of American voters, across party lines, support federal-level clean slate legislation that automatically seals federal marijuana and other nonviolent drug offenses. A University of Michigan [study](#) found that record sealing significantly increased employment opportunities and wages for justice-involved individuals while reducing recidivism.

The streamlined process also decreases the burden on the criminal justice system and reduces taxpayer costs associated with reentry failure. Advocates estimate that excluding an entire population of potential employees from the labor market costs the U.S. economy \$87 billion annually. Clean slate legislation also improves opportunities for the children and spouses of formerly convicted persons. [Half](#) of the nation’s children have at least one parent with a criminal record. This experience [impacts](#) brain

development, school performance and future earning potential for the child.

Parties opposed to clean slate legislation fear that absent readily available access to criminal histories, employers, houses of worship, private schools and faith-based non-profits will be unable to hire employees and volunteers safely. Additional concerns are raised when the opportunities involve vulnerable citizens, particularly children, the elderly, and those with mental or physical disabilities.

To mitigate potential harm and assuage public safety concerns, [H.R. 2864](#) and [S. 1380](#) contain exclusionary criteria that makes sex offenders and anyone convicted of treason-related offenses ineligible for record sealing. The bill allows records to be unsealed for the filing of federal criminal charges and for court testimony. Records can also be accessed to conduct background checks related to law enforcement employment, employment with any federal agency designated as a national security position or a high-risk, public trust position and for background checks for the manufacture, importation, sale, transfer, possession or carrying of firearms, explosives or ammunition.

ACTION ITEMS

Clean slate legislation is critical to ensuring the housing and employment stability associated with reduced criminal offending. These are basic life necessities that people with criminal records need but are unable to access because of their previous contacts with the legal system. Record sealing provides the opportunity for individuals to develop the social capital that deters them from future law violations while improving familial outcomes and stimulating the economy.

[Research](#) dispels the myth that a criminal record should inherently and permanently disqualify an individual from stable and suitable housing, education and employment. The community is no less safe when eligible records are sealed, even for crimes of violence. These individuals are no more likely than the general population to commit a new offense [4-7 years](#) after their most recent offense.

Clean Slate is a commonsense approach to reducing recidivism, increasing public safety and restoring the ability of millions of Americans to secure stable employment and housing. The policy model would automatically seal criminal records for certain offenses after individuals have served their sentence and incurred no new criminal charges. Incentivizing justice-involved individuals to

complete their sentence and remain law-abiding so that their records can be wiped clean is smart on crime. Individuals, families and communities can thrive when the prohibitive barrier of a criminal record is removed and all eligible citizens are able to participate fully.

CONTACT US

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Note: This is an updated version of a previously published R Sheet. Changes have been made to reflect the most recent data.