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EXPLAINER

Pardon Me? How Federal Automated Record-sealing Can Stimulate the Economy and Increase Public Safety

December 2024

Perpetual Paper Trail

Since 2018, [nearly half of states](#) have either passed clean slate [automated record-sealing laws](#), adopted legislation to [expunge cannabis convictions](#), or initiated [campaigns](#) to seal certain criminal records. These efforts acknowledge the perpetual, often lifelong barriers that people with publicly available criminal records face. The [collateral consequences](#) of a record, even for people who have been arrested but not convicted, make it exceedingly difficult to obtain and maintain basic life stability. For the [one in three adults](#) with a criminal record, this often means a lifetime of [poverty](#) and [negative generational outcomes](#) for dependents.

When people are unable to establish stability or advance in life because of records-based discrimination, the public also suffers negative effects. Being unemployed, underemployed, or employed “off the books” means less money cycling back into the community and reduced tax revenue. This translates to an [\\$87 billion per year loss](#) to the national economy. The social cost of [cyclical incarceration](#) and increased likelihood of homelessness among this population is an estimated [\\$1.2 trillion annually](#). And without legitimate opportunities to provide for oneself and one’s family—combined with a [lack of affordable products](#)—people may be disincentivized to remain law-abiding. This can result in [increased crime and escalating product costs](#) as stores attempt to reduce retail theft. Our streets are less safe when people who have paid their debt to society and remained law-abiding continue to be excluded from the basic resources they need to survive.

Illusory Second Chances

Our federal government has long recognized the importance of offering [second chances](#), resources, and support for people with criminal records and for those reentering society. Second chances also exist in the form of [clemency](#) (commutations and pardons), which originated in 1870. Clemency signifies a shift in the current perspective on either the law violated or the sentence rendered. But pardons have limited impact when criminal records remain publicly available.

Options for Public Record Removal

All but four states and the federal government have processes for people to [petition the court](#) to have their record removed from the public purview or from the entire criminal justice system. However, [only a tiny fraction of eligible people](#) take advantage of the opportunity, either because they are unaware that it exists or because of the time, expense, and confusing legal process. Clean slate automated record-sealing, which harnesses technology to identify which records are eligible for sealing, resolves this [“uptick problem”](#) so that people no longer have to apply to have their records removed from the public purview.

It is also important to distinguish between [record-sealing](#) and [expungement](#). The former removes old criminal records from state and federal background checks used in making housing, employment, education, or volunteer decisions. The record still exists, but it is not available to the public. The latter essentially deletes the record as if it never existed. To assuage public safety concerns, drafters of clean slate legislation should recognize the differences between sealing and expungement and craft bill language accordingly.



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While opponents express concern about public safety issues that could arise from shielding records, research suggests the opposite is true: People with sealed or expunged records commit crime at a lower rate than the general public.

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Mitigating Public Safety Concerns

Despite [bipartisan support](#) at the federal level and the speed with which clean slate legislation has spread across the states, federal clean slate legislation has yet to be adopted. While opponents [express concern](#) about public safety issues that could arise from shielding records, [research suggests](#) the opposite is true: People with sealed or expunged records commit crime at a lower rate than the general public. [Additional concerns](#) arise from the need to access a criminal record for the purposes of investigating a new crime; vetting candidates for jobs in law enforcement or for occupations with high security clearances; processing firearms applications; and identifying individuals convicted of homicide, sex offenses, or crimes against children. To address these concerns, many existing clean slate laws include [public safety carve-outs](#) that allow police, prosecutors, court officials, and the U.S. Department of Education to access sealed records.

Law Enforcement Benefits

People are [more likely to continue](#) cycling through the criminal justice system and the streets when they are unable to access the resources required to meet their most basic needs. This [unduly burdens](#) law enforcement officers and agencies, who are already struggling to hire and retain staff and address the host of social problems that bring people to the attention of the legal system. Notably, the [Major Cities Chiefs Association](#), “a professional organization of law enforcement executives representing the largest cities in the United States and Canada,” supports smart record expungement legislation. Thoughtfully determining eligibility criteria, including wait times to establish ongoing compliance with the law and allowing records access to certain professionals under limited circumstances, can mitigate public safety concerns. Our streets are safer and our economy stronger when all eligible individuals have the opportunity to obtain the resources they need to remain law-abiding citizens.

Automated Record-sealing as a Solution

[Clean slate](#) automated record-sealing is a bipartisan policy model that uses technology to identify and clear eligible arrest and conviction records once a person has remained crime-free for a specific period of time. The “wait time” is consistent with [existing research](#) on reduced recidivism and improved outcomes for people who have had their records cleared. These individuals experience [increased employment opportunities](#) and earning potential. This boosts the economy and enhances the [human and social capital](#) people need to reintegrate fully into their communities, thereby reducing their likelihood of reoffending.

There is currently no mechanism for the [clearance of federal records](#), even if the arrest or conviction was invalid. And while presidents have [used their power to grant pardons](#), pardoned records remain publicly available. For the [estimated 1.9 million people](#) who have been arrested but not prosecuted, prosecuted but not convicted, or convicted of a non-violent federal offense, automated record-sealing could be life-changing.

Federal [clean slate legislation](#) and a [companion bill](#) to facilitate grant funding to states seeking to pass clean slate laws were introduced in 2023. While neither bill passed, advancing automated record-sealing legislation should be a priority for the incoming Congress.