II(B)(3). Expungement, Sealing, and Set-Aside of Convictions

Tens of millions of Americans have been convicted of a felony or misdemeanor.1 This number has grown substantially in the last four decades as a result of the policies of “mass incarceration” and so-called “war on crime,” with disproportionate impacts on black and brown people.2 The vast network of collateral consequences that can flow from a conviction in the modern era has been described as a new form of “civil death.”3 In addition to formal legal consequences, the widespread dissemination of criminal records on the internet and in background checks operates as a form of “digital punishment.”4

In the current era of restoration of rights reforms that begin in 2013, advocates and policymakers have been most active in efforts to authorize or improve laws for expunging, sealing, and setting-aside convictions.5 At a minimum, such remedies promise to alleviate the stigma and discrimination that are produced by a criminal

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record in social and economic contexts. Expungement and sealing laws restrict access to criminal records and sometimes even provide for their destruction. Set-aside laws authorize a court to “vacate” a conviction in order to signal a person’s rehabilitation, relief that may or may not be followed by sealing the record. Studies have shown that people who obtain this type of record-revising relief experience improved employment outcomes and low recidivism rates. We call these remedies “record-revising” to distinguish them from the “record-supplementing” remedies of

6 It is not clear the extent to which record-revising remedies operate to remove or alleviate formal collateral consequences such as firearm dispossessal and registration. See Margaret Colgate Love et al., Collateral Consequences of Criminal Convictions: Law, Policy and Practice §§ 7:17 (2018). Federal law frequently does not accord any legal effect to state expungement or record-sealing. See infra note 37.

7 States use various other terms to describe restrictions on access to criminal records, including annulment (New Hampshire) and erasure (Connecticut), but for simplicity this report settles on the generic terms expungement and sealing and uses them interchangeably unless a more specific meaning is indicated. The functional effect of these remedies also varies from state to state. In some states sealed or expunged records remain available only to law enforcement, which is sometimes required to obtain a court order. In others, public employers and licensing boards may have access, or any private entities authorized by law to conduct a background check (e.g., employers working with vulnerable populations such as the elderly or disabled). In Indiana, an expungement does not limit public access to the record of most felonies, although expunged misdemeanors and non-conviction records are sealed. In some states, “expungement” is indistinguishable from “sealing” (e.g., Louisiana, Kansas, Rhode Island, and Vermont), and in others sealing and expungement are functionally distinct remedies (e.g., Illinois, Pennsylvania). In a few states the law directs that expunged records should be physically destroyed (e.g., Connecticut, Illinois Maryland, Montana, Pennsylvania, North Carolina), although even in these states non-public copies are ordinarily retained in a sequestered court file.

8 States increasingly have enacted laws to augment their set-aside remedy with record-sealing (i.e., California, New Hampshire, Oregon, Washington), such that only two states (Arizona and Nebraska) now retain the pure vacatur remedy contemplated by § 306.6 of the 1962 Model Penal Code.

9 See Prescott & Starr, supra note 1 at 2461, 2510-23, 2523-43 (large-scale, empirical study in Michigan finding that people who have their conviction set-aside and sealed have “extremely low” subsequent crime rates, comparing favorably to the general population, and it is “quite likely” that an expungement reduces a person’s recidivism risk below their previous baseline; also those who obtain relief experience a “sharp upturn” in wage and employment outcomes); Jeffrey Selbin, Justin McCrory, & Joshua Epstein, Unmarked? Criminal Record Clearing and Employment Outcomes, 108 J. Crim. L. & Criminology 1, 9 (2018) (study in California of a random sample of law school clinic clients who received a set-aside or felony reduction to misdemeanor, finding evidence of improved employment rates and earnings).
executive pardon and judicial certificates of relief discussed in other sections of this chapter.

States in recent years have passed dozens of laws authorizing record-revising relief, some for the first time and others continuing to expand existing eligibility and/or improve procedures.10 Despite the pace of reform, the law remains uneven. In many states and for many types of convictions, eligibility is restrictive, procedures are burdensome, and effect is uncertain.11 Moreover, only a small percentage of those who are eligible for relief actually obtain it. Scholars attribute this “second chance gap”12 to multiple factors, including lack of information, cost and complexity of procedures, absence of counsel, and distrust of the legal system.13 In addition, people who are made to wait up to a decade or more after finishing their sentence to become eligible to apply may no longer want or need relief. Even if people do obtain relief, they typically face daunting challenges in trying to make it effective, including trying to have expunged records removed from the internet and commercial databases.14


11 See supra note 5; see also Brian Murray, Retributive Expungement, 169 Pa. Law Rev. ___ (Forthcoming 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3617875 (arguing that because expungement was originally conceived through a rehabilitative framework, many procedural hurdles in the law were intentionally designed to channel relief to those with unusual records of achievement; and suggesting that a retributive approach would support the case for broader eligibility, an obligation on the state to prove ineligibility, and automated relief.)


13 Prescott & Starr, supra note 1 at 2461, 2486-2510 (finding that among those legally eligible for set-aside and sealing in Michigan, only 6.5% obtain it within five years of eligibility; proposing the likely reasons for this low uptake rate).

There are few best practices or model laws addressing these forms of relief. While national law reform organizations have endorsed judicial certificates that dispense with mandatory collateral consequences and signal rehabilitation, none has endorsed record-sealing or set-aside.\(^{15}\) With the lack of national guidance, state laws differ widely. The following discussion is an overview of diverse approaches, with grades assigned at the end of the section for misdemeanor and felony sealing and set-aside provisions in each state. Readers wishing more specific information are invited to consult the appendices and the Restoration of Rights Project.

We begin by describing the broad structural categories of record-revising relief currently in effect across the country, then turn to more specific eligibility criteria, procedural requirements (including judicial standards), and legal effect. At the end of the section we grade each jurisdiction’s law on its scope, accessibility, and effect, grading separately for felonies and misdemeanors.

**Scope of relief by category**

Looking at record-revising relief for convictions, the 50 states, federal system, and District of Columbia can be divided into five categories:

1. broader felony and misdemeanor relief (13 states)
2. limited felony and misdemeanor relief (21 states)
3. relief for pardoned convictions and for misdemeanors (4 states)
4. misdemeanor relief only (4 states and D.C)
5. no general conviction record-revising relief (8 states, federal system)

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\(^{15}\) The collateral consequence relief proposals of the American Bar Association (2003), Uniform Law Commission (2010), and American Law Institute (2017), are discussed in the section on judicial certificates, *infra*. The 1962 Model Penal Code endorsed set-aside, and the 1983 ABA Standards endorsed expungement, but neither organization included this relief in their more contemporary proposals. The only model policies on sealing convictions were published in 2019 by a California nonprofit, suggesting four principles: relief should (1) include an automatic relief mechanism; (2) come at or soon after the end of sentence; (3) be focused to maximize safety; and (4) extend to a wide spectrum of offenses. LENORE ANDERSON et al., CREATING MODEL LEGISLATIVE RELIEF FOR PEOPLE WITH PAST CONVICTIONS, ALLIANCE FOR SAFETY AND JUSTICE (2019), https://allianceforsafetyandjustice.org/wp-content/uploads/2019/09/Model-Policies-Brief.pdf.
More than two-thirds of the states (34) now have laws that extend eligibility for record-revision to both misdemeanor and felony convictions, apart from the pardon process. Six states have joined this list in the last two years alone: Oklahoma and Maryland extended sealing eligibility to felonies in 2018, and four of the five states that enacted their first general sealing laws in 2019 extended relief to felonies (North Dakota, New Mexico, West Virginia, Delaware).

Of this group of 34 states, 13 have broad eligibility standards that encompass a relatively wide range of convictions. An additional 21 states have more limited eligibility, typically excluding many offenses, with longer waiting periods, and other requirements (e.g., 14 of the 21 states confine felony eligibility to a single

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16 Arizona, Arkansas, Colorado, Illinois, Indiana, Kansas, Massachusetts, Minnesota, Nevada, New Hampshire, New Mexico, North Dakota, and Washington. All seal convictions except Arizona, which has a broad set-aside authority that releases the person from “all penalties and disabilities” resulting from the conviction but does not limit public access to the record. Ariz. Rev. Stat. § 13-90.

States often apply different standards for felonies and misdemeanors so that some with restrictive felony expungement have quite generous misdemeanor relief (e.g., Kentucky, New Jersey).

The next group of four states allows felonies to be expunged, but only if they have first been pardoned. Connecticut relies exclusively on the pardon power to seal conviction records, but the other three states (Georgia, Pennsylvania, and South Dakota) also have misdemeanor expungement laws that do not require a pardon. South Dakota’s 2016 law was the nation’s first automatic conviction-sealing law, although it applies only to Class 2 misdemeanors after a 10-year waiting period. Pennsylvania’s more expansive Clean Slate Act of 2018 put automatic sealing on the map, making a wide range of misdemeanor convictions eligible, also after a ten-year waiting period, and a somewhat broader set of misdemeanors may be sealed by petition. A 2020 Georgia law—in addition to allowing pardoned convictions to be sealed—authorizes “record restriction” and sealing for a range of non-violent misdemeanor offenses after four conviction-free years, allowing up to two such convictions to be sealed in a lifetime.

The next group of jurisdictions allows some misdemeanors but no felony convictions to be expunged (Iowa, Montana, South Carolina, Texas, and D.C.). Even for misdemeanors, all but one of these authorities are relatively limited. Most restrictive is Iowa’s 2019 law, which makes only a single misdemeanor eligible if 8 years have passed since completion of sentence, if the person has no other convictions, and if

17 California, Delaware, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Vermont, West Virginia, and Wyoming. All seal convictions except Nebraska, which authorizes people sentenced to probation to petition for the conviction to be set-aside, removing “all civil disabilities and disqualifications.” Neb. Rev. Stat. § 29-2264.

18 Relief for pardoned convictions is automatic in three states (Connecticut, Pennsylvania and South Dakota) and by court petition in Georgia. As noted in the previous section on pardon, about a dozen additional states make pardon grounds for expungement. Those states all have separate laws allowing at least some felony and misdemeanor convictions to be expunged or set-aside even if they have not been pardoned.

19 It also covers petty offense and municipal code violations. S.D. Codified Laws § 23A-3-34

additional requirements are satisfied. D.C.’s law excludes many offenses and has a long waiting period, and Texas and South Carolina make prior convictions or diversion disqualifying. More favorably, Montana allows multiple misdemeanors to be expunged, with a presumption in favor of relief for most offenses, although only one expungement is allowed in a lifetime.

The last group of eight states and the federal system lack any general conviction relief, although most have narrow, specialized laws, applicable to minor marijuana convictions (Hawaii and Virginia) or to victims of human trafficking (Alabama, Hawaii, Idaho, Florida, and Wisconsin).

Illinois’ sealing law is most expansive in the country. It extends eligibility to all but a few very serious felonies without regard to an applicant’s prior record, after a uniformly brief three-year waiting period. Nevada offers sealing for almost all felonies, the only proviso being a clean record during a graduated waiting period. Arizona permits its courts to “set-aside” or “vacate” most convictions upon successful completion of sentence and discharge, though it does not restrict access to the record. Among the states that extend record-revision to felonies, Maryland is at the other end of the spectrum, authorizing expungement for only three specific felonies (theft, burglary, and drug possession with intent to distribute), after a 15-year conviction-free waiting period. Between these two extremes, there are as many differing approaches as there are states, with scope generally dependent on seriousness of the offense, and eligibility often dependent on prior record and the

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21 Iowa Code § 901C.3.
25 The D.C. sealing law’s coverage of one felony (failure to appear) is too unique to be an appropriate bookend.
26 Many misdemeanors can also be expunged, but a 10- or 15-year conviction-free waiting period applies (marijuana possession sealing has a 4-year period and certain nuisance crimes have a 3-year period). Md. Code Ann., Crim. Proc. § 10-105. “If the person is convicted of a new crime during [the applicable waiting period], the original conviction or convictions are not eligible for expungement unless the new conviction becomes eligible for expungement.” Id. § 10-110(D)(1).
passage of time. These differing approaches, captured in the grading system that follows this section, can be seen in the state-by-state summaries appended to this report. They are examined in detail in the state profiles from the Restoration of Rights Project.

Beyond the general expungement, sealing, and set-aside laws that are the subject of the report cards that conclude this chapter, many states have enacted specialized authorities, often for the two categories already discussed: marijuana offenses and convictions of victims of human trafficking, as well as for youthful offenses. A total of 18 states and D.C. have enacted relief specifically for marijuana, decriminalized, and legalized offenses, including automatic relief in California, Illinois, New Jersey, New York, and Virginia. At least 35 states have a specialized relief law for victims of human trafficking—sometimes covering prostitution offenses only and sometimes covering any offenses resulting from victim status.

Several states also authorize their courts to reduce certain felony convictions to a misdemeanor, thereby avoiding the most severe consequences of conviction (e.g., California, Idaho, Indiana, Oklahoma, and North Dakota).

**Additional eligibility requirements**

In addition to basic limits on coverage, state laws impose a variety of more specific eligibility requirements, especially for felonies. Typically, certain categories of offenses will be excluded (i.e. higher classes of offenses, DUI, violence, sex, weapons, etc.), or certain people will be excluded based on their past or subsequent criminal record, including prior sealings, pending charges, probation violations, or sex offender registration requirements. Some states make record-closing a one-bite affair, including states with broad and sophisticated schemes like Indiana and Illinois. A number of states have waiting periods of a decade or more, which would seem too late to advance stated legislative goals of reducing

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recidivism.\textsuperscript{28} We considered these and other more specific eligibility requirements in deciding how to grade each state’s law in the report card at the end of this section.

Most states require the satisfaction of various forms of court debt, such as fines, fees, restitution, and costs, as a prerequisite to expungement.\textsuperscript{29} Recognizing the unfairness of restricting relief to those with means to pay financial obligations, three states have enacted laws since 2018 to alleviate these requirements in the expungement process (Illinois, New Jersey, Washington).\textsuperscript{30}

In state after state, eligibility criteria are curiously complex, the evident result of expansion and contraction through the legislative bargaining process over a period of years.\textsuperscript{31} It is not surprising that among the cleanest and broadest sealing laws in

\textsuperscript{28} For example, by the time someone has satisfied the ten crime-free years after completion of sentence required by both New York and Louisiana, and the 15 years required by Maryland, they would appear to be in little jeopardy of subsequent conviction.

\textsuperscript{29} Recent advocacy has highlighted the extent to which many people lack the ability to pay these obligations. See, e.g., Fines and Fees Justice Center, https://finesandfeesjusticecenter.org/. A 2018 study of California residents with convictions found that 45% struggle to pay fines and fees. REPAIRING THE ROAD TO REDEMPTION IN CALIFORNIA, CALIFORNIANS FOR SAFETY AND JUSTICE (2018), https://safeandjust.org/wp-content/uploads/CSJ_SecondChances-ONLINE-May14.pdf. Earlier this year, the federal district court in a major Florida voting rights case found that—of hundreds of thousands of people with a felony conviction who had served all their custody and supervision time, but still owed financial obligations—the “overwhelming majority” were “genuinely unable to pay” the owed amounts. Jones v. DeSantis, Case No. 4:19cv300-RH/MJF, 2020 WL 2618062, at *15 (N.D. Fla. 2020).

\textsuperscript{30} In 2018, Illinois prohibited courts from denying sealing or expungement petition because the petitioner had not satisfied an outstanding financial obligation by a court or local government, except that restitution to victims may be considered unless it was converted to a civil judgment. Ill. Comp. Stat. Ann. 2630/5.2(e)(6)(C). In 2019, Washington state modified its laws so that a person need not have satisfied financial obligations to obtain a certificate of discharge (a prerequisite for sealing), as long as all other requirements of the sentence are satisfied and five years have passed since completion of supervision. Wash. Rev. Code § § 9.94A.637(4). In 2019, New Jersey allowed courts, when considering expungement petitions, to waive financial obligations or convert them to civil judgments. N.J. Stat. Ann. § 2C:52-2(a)(1).

\textsuperscript{31} For example, Minnesota limits felony sealing to a list of 50 offenses ranging from aggravated forgery to livestock theft. Maryland has a long list of crimes eligible for expungement, and another list eligible for “shielding” (sealing) at an earlier date. In Oregon closure is available for many non-violent misdemeanors and less serious felonies, but only if the individual has not been convicted in the previous 10 years (or ever, if the record for which closure is sought is a Class B felony) nor arrested within the previous three years. Missouri’s 2017 sealing law permits closure of a significant number of felony and misdemeanor offenses, with seven years conviction-free
the country are the top-to-bottom schemes enacted in 2019 by New Mexico and North Dakota.\textsuperscript{32}

**Procedural barriers**

Expungement petitions are frequently difficult, time-consuming, and expensive to prepare, especially without a lawyer. Typically, they require collection of various criminal history records and character evidence, formal service on multiple parties, filing fees, responses to objections, appearances at hearings, service of expungement orders on courts, agencies, and private parties, etc. These challenges have been compounded by limits on and dangers of physical access to courthouse and agencies during Covid-19. Ironically, the governor of Washington vetoed a bill calling for automatic relief precisely because of pandemic-related budgetary challenges, although such a measure would have reduced the need for in-person procedures.\textsuperscript{33}

Even aside from fees charged to obtain criminal records and run fingerprint checks, filing fees in a number of states may be prohibitively high and unwaivable ($300 in Kentucky and Alabama), while in other states fees have been reduced (from $450 to $280 to $100 in Tennessee) or may be waived. Some courts and agencies have made efforts to assist persons of limited means: Illinois courts and the Office of the State Appellate Defender, for example, publish model forms and instructions for different types of cases and provide guidance for those seeking relief.

Once a petition is filed, the court may be required to hold a hearing in all cases (e.g. Michigan), for felony offenses (e.g. Arkansas), if the prosecutor or victim objects (e.g. Maryland), or at the court’s discretion (e.g. Delaware). Relief for eligible applicants may be mandatory, presumed, dependent on the court’s discretion, or

\textsuperscript{32} See supra note 11.

require a strong showing of need. In some cases, the law specifies criteria to guide a court’s decision (e.g., Georgia: “the harm otherwise resulting to the individual clearly outweighs the public’s interest in the criminal history record information being publicly available”). In others the court’s discretion is unlimited (e.g., New Jersey), and in still others sealing is mandatory if statutory eligibility criteria are met (e.g., Indiana, Kentucky, Louisiana). In Utah, where most felonies may be expunged after a graduated waiting period, an order must issue unless the court finds that this would be “contrary to the public interest.”

The enactment of laws requiring officials to automatically seal some convictions would obviate the need for individuals to apply for relief and thereby avoid the many access barriers that currently depress grant rates and produce the “second chance gap.” Since 2018, eight states have enacted laws providing for automatic sealing of certain convictions (usually misdemeanors). Most significantly, beginning in early 2021 California will automatically seal all convictions previously granted relief under the state’s longstanding set-aside authority for misdemeanors and certain low-level felonies, as well as similar convictions going forward. There have been efforts in other states to streamline the sealing process short of automation through simplified administrative procedures. For example, Delaware mandates relief for people with eligible misdemeanors who present themselves to the state record repository with a set of fingerprints and a copy of their record.

**Effect of relief**

The effect of sealing or expungement orders on opportunities restricted by law is unclear in many states. Some sealing laws make clear that they do not relieve

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34 See *supra* notes 12 and 13.

35 California (certain misdemeanors and low-level felonies; marijuana offenses); Illinois (certain marijuana offenses); New Jersey (certain misdemeanors and low-level felonies, including for marijuana); New York (minor marijuana offenses); Pennsylvania (a range of misdemeanors); South Dakota (minor misdemeanors); Utah (a range of misdemeanors); and Virginia (minor marijuana offenses). See 50-State Comparison: Expungement, Sealing & Other Record Relief, Collateral Consequences Resource Center, [https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison/judicial-expungement-sealing-and-set-aside/](https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison/judicial-expungement-sealing-and-set-aside/). The Clean Slate Initiative has been a leader in advocating for automatic relief. See [https://ccresourcecenter.org/2020/08/03/the-clean-slate-initiative-a-national-bipartisan-coalition/](https://ccresourcecenter.org/2020/08/03/the-clean-slate-initiative-a-national-bipartisan-coalition/).

36 Del. Code tit. 11, § 4373(a).
firearms dispossession or sex offender registration, but many leave a recipient in doubt about their rights and responsibilities where mandatory restrictions are concerned. It is also true that many record-closing laws purport to authorize a person to deny having been convicted, but this is perilous advice when dealing with entities required by law to conduct a background check or governed by federal law. A few states make clear that expunged or sealed convictions must be disclosed for employment requiring a background check (e.g., Illinois, Indiana, New York). Kansas specifically requires disclosure of expunged convictions in certain licensing and public employment applications (health, security, gaming, commercial driver or guide, investment adviser, law enforcement), and Missouri has a similar disclosure requirement for professional licenses, or any employment relating to alcoholic beverages, the state-operated lottery, or provision of emergency services. Missouri’s law is one of the few that makes clear that “an expunged offense shall not be grounds for automatic disqualification of an application, but may be a factor for denying employment, or a professional license, certificate, or permit.” Some states require that even non-conviction records that have been expunged must be disclosed in some contexts (e.g., Alabama, Kansas, Louisiana).

State record relief orders are given inconsistent effect in federal law. Some areas of law give effect to one form of relief (e.g., expungement) but not to another (pardon), and vice-versa. Further, whether a specific type of state relief is given effect may differ depending on how the federal rule defines the requisite elements of relief, and whether they apply a federal definition of a term like “expungement.”

37 For example, in the immigration context, a non-citizen may avoid deportation based on conviction with a “full and unconditional” pardon, but state judicial relief is only recognized if granted “because of a procedural or substantive defect in the criminal proceedings,” and not if granted “for equitable, rehabilitation, or immigration hardship reasons.” See 8 U.S.C. § 1227(a)(2)(A)(vi); Prado v. Barr, No. 17-72914, 2020 WL 596877, at *3 (9th Cir. Feb. 3, 2020); Resendiz-Alcaraz v. U.S. Att’y Gen., 383 F.3d 1262 (11th Cir. 2004). There have been exceptions made to this non-recognition of expungement, including eliminating conviction as an absolute bar to obtaining Deferred Action for Childhood Arrivals (DACA) status. See https://www.ilrc.org/sites/default/files/resources/definition_conviction-kb-20180307.pdf. The FDIC, in regulating banking employment, until recently only recognized expungements that were “complete” (meaning the record can never be used for any subsequent purpose) but new regulations effective September 21, 2020, will give effect to any expungement or record-sealing. See FDIC Final Rule amending 12 CFR Parts 303 and 308, https://www.govinfo.gov/content/pkg/FR-2020-08-20/pdf/2020-16464.pdf. On the other hand, the Small Business Administration requires loans applicants to disclose convictions even if they have
Recipients of relief face also significant challenges with the proliferation of records on the internet and in commercial databases.38 Certain companies, including those that conduct background checks, are regulated by the federal Fair Credit Reporting Act (FCRA), whose provisions would seem to prohibit reporting of expunged or sealed convictions.39 Despite efforts to compel compliance, “[d]eficiencies of enforcement mechanisms, a certain degree of ambiguity in regulatory guidance, and practical difficulties in constantly keeping databases up to date make the problem of inaccurate and outdated criminal records hard to eradicate.”40

Online “people search” services, which collect criminal records and make them available for a fee, have thus far successfully argued they are “mere information aggregators” not subject to FCRA by providing disclaimers that users are not to use the information for decision-making but only “in an information-gathering spirit.”41 Some states have additional protections that supplement FCRA, notably including California’s Investigative Consumer Reporting Agencies Act, which antedates the federal statute.42 Indiana’s 2013 expungement law, which post-dates federal FCRA, prohibits commercial record providers from reporting any expunged convictions even if they have not also been sealed.43 The Pennsylvania Courts provide a data file been expunged or sealed. See, e.g., SBA Standard Operating Procedures 50 10 5(K), pp. 110, 293 (eff. April 1, 2019).


39 This law requires “reasonable procedures to ensure maximum possible accuracy”—and in the employment context, unless contemporaneous notice is provide to the person being screened, the use of “strict procedures” to ensure data is up to date. 15 U.S.C. §§ 1681e(b), 1681k.


41 Id.

42 See Cal. Civ. C. § 1786 et seq.

43 In Indiana, an expungement does not limit public access to the record of most felonies, although misdemeanors and non-conviction records, as well as the records of the least serious felonies, are sealed following expungement. See Indiana profile, Restoration of Rights Project; see also CCRC Staff, Indiana’s new expungement law the product of “many, many compromises,” Dec. 15, 2014, https://ccresourcercenter.org/2014/12/15/indianas-new-expungement-law-product-many-many-compromises/.
each month listing expunged cases that must be removed from private databases under the contract for purchasing court records.\textsuperscript{44}

With little regulation, the proliferation of records on the internet means that most sealed and expunged convictions will continue to appear in Google searches and persist on websites and databases.\textsuperscript{45} People lack the time and resources to track down each place where a record appears on the internet, or the legal skills “to negotiate with, pay off, or sue every company” that profits from it.\textsuperscript{46}

\textbf{Report card}

The following report card grades each state, D.C. and the federal system on their laws providing for sealing or set-aside of felony and misdemeanor convictions. We provide a separate grade for each type of record, since states that provide little if any remedy for felony convictions may be expansive toward misdemeanors. Our grades were somewhat subjective, but in general considered the law’s scope, accessibility (additional eligibility criteria and procedural barriers), and effect. Note that these grades may not correspond exactly with the categories in the map earlier in this section, which were based on structural coverage only. We stress that we have not studied how each of these laws operates in practice, including how difficult it may be to apply without a lawyer or how many people apply for and obtain relief, and our grades therefore may or may not reflect whether and to what extent a particular law actually delivers on its promise.

\textsuperscript{44} See Dietrich, \textit{supra} note 38.

\textsuperscript{45} See Lageson, \textit{supra} note 4.

\textsuperscript{46} \textit{Id.}
Report card: Expungement, Sealing, and Set-Aside of Convictions

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