



The Reintegration Agenda During Pandemic: Criminal Record Reforms in 2020

January 2021

By Margaret Love and David Schlussel



COLLATERAL CONSEQUENCES RESOURCE CENTER

The Collateral Consequences Resource Center is a non-profit organization established in 2014 to promote public engagement on the myriad issues raised by the collateral consequences of arrest or conviction. Collateral consequences are the legal restrictions and societal stigma that burden people with a criminal record long after their criminal case is closed. The Center provides news and commentary about this dynamic area of the law, and a variety of research and practice materials aimed at legal and policy advocates, courts, scholars, lawmakers, and those most directly affected by criminal justice involvement.

Through our Restoration of Rights Project (RRP) we describe and analyze the various laws and practices relating to restoration of rights and criminal record relief in each U.S. jurisdiction. In addition to these state-by-state profiles, a series of 50-state comparison charts and periodic reports on new enactments make it possible to see national patterns and emerging trends in formal efforts to mitigate the adverse impact of a criminal record. We have recently begun consulting in support of state law reform efforts, and in 2019 organized a successful effort to develop a model law on access to and use of non-conviction records. In addition, we participate in court cases challenging specific collateral consequences, and engage with social media and journalists on these issues. For more information, visit the CCRC website at <http://ccresourcecenter.org>.



The Reintegration Agenda During Pandemic:

Criminal Record Reforms in 2020

By Margaret Love & David Schlusel

OVERVIEW	1
REPORT CARD.....	8
Voting rights.....	10
Record relief.....	11
Occupational licensing and employment.....	21
Public benefits	28
Driver’s licenses.....	30
Other relief measures	31
Appendix: New laws by state	35

OVERVIEW

In each of the past five years, CCRC has issued an end-of-year report on legislative efforts to reduce barriers faced by people with a criminal record in the workplace, at the ballot box, and in many other areas of daily life.¹ These reports document the progress of what has become a full-fledged law reform movement intended to restore individuals' rights and status following their navigation of the criminal law system, facilitating reintegration into society.

This reintegration reform movement is grounded in the circumstance that almost a third of adult Americans now have a criminal record, entangling them in a web of legal restrictions and discrimination that can permanently disable them. It reflects a recognition that this is not only unsafe and inefficient, it is also profoundly unfair.

Since 2013, every state legislature has taken at least some steps to chip away at the negative effects of a criminal record on the ability to earn a living, to access housing, education, and public benefits, and otherwise to fully reintegrate into society. Some states have entirely remade their post-sentence relief

Since 2013, every state legislature has taken at least some steps to chip away at the negative effects of a criminal record

systems. Some state governors have also issued executive orders or class-wide pardons in support of this restoration effort. Congress also has rather belatedly become interested in criminal records issues, limiting background checks in federal employment and contracting in 2019, and removing barriers to public benefits in 2020 spurred by the effects of the pandemic.

The past year saw a continuation of these legislative trends. While fewer states enacted fewer laws in 2020 than in the preceding two years, evidently because of the disruptions caused by the pandemic, the fact that there was still considerable progress is testament to a genuine and enduring public commitment to a reintegration agenda.

In 2020, 32 states, the District of Columbia, and the federal government enacted 106 legislative bills, approved 5 ballot initiatives, and issued 4 executive orders to restore rights and opportunities to people with a criminal record.

As in 2019, a majority of the new laws in 2020 involve what we have come to call “record relief,” measures that operate on the criminal record itself to reduce its negative effect. Record relief may limit public access through expungement or sealing,

vacate or pardon the conviction, or avoid a conviction record through diversion or deferral of judgment. Other restoration laws regulate discretionary decisionmakers that control access to the workplace, public benefits, and education. Still others expand the franchise, and curb driver's license suspensions based on unpaid court debt or grounds unrelated to dangerous driving.

A majority of the new laws in 2020 involve record relief, which operates on the criminal record itself to reduce its negative effect, through expungement, set-aside, or pardon

Approaches to record reform continue to vary widely from state to state, with respect to the type of relief, the specifics of who is eligible for it, the mechanics of delivery, and its effect. Yet despite this variety it is clear that there has been no flagging in the lively national conversation about how best to limit unwarranted record-based discrimination.

This overview highlights key developments in reintegration reforms from the past year. Following it, our second annual legislative [Report Card](#) recognizes the progress of the most (and least) productive state legislatures in 2020. The body of this report provides topical discussions of last year's reform measures, followed by an appendix documenting the laws by jurisdiction. More detailed analysis of each state's laws is available in the [CCRC Restoration of Rights Project](#). (A general roundup of criminal justice reforms in 2020 is also available at The Appeal's [Political Report](#).)

Voting and other civil rights

In 2020, three states and D.C. expanded voting rights for people with a felony conviction through legislation, ballot initiative, or executive order. The most significant changes were in **California**, where a ballot initiative restored the vote to parolees, **Iowa**, where an executive order restored the vote to people convicted of most felonies after completion of incarceration and supervision, and the **District of Columbia**, which repealed felony disenfranchisement altogether so that even people in prison may vote.

Overall, in the last five years a total of 19 states have taken steps to restore the right to vote and to expand awareness of voting eligibility, 13 by statute, four by executive order, and two by ballot initiative.² At present, there are only a handful of states in which a felony conviction results in permanent disenfranchisement, in most cases [based on outstanding court debt](#).³

Criminal record relief, including diversionary dispositions

In 2020, 20 states enacted 35 bills and two ballot measures creating, expanding, or streamlining laws providing for expungement, sealing, or vacatur. Three other states streamlined their pardoning procedures and authorities. An additional 7 states and Congress enacted 15 laws expanding authorities for diversion and deferred adjudication, dispositions often eligible for sealing or expungement under existing law.

In what was surely the most ambitious record reform of 2020, Michigan enacted a series of bills automating set-aside and sealing for a broad range of misdemeanor and felony convictions.

In what was surely the most ambitious record reform of 2020, **Michigan** enacted a series of bills expanding and automating set-aside and sealing for a broad range of misdemeanor and felony convictions, becoming the [sixth state](#) to enact automatic conviction relief, and enacting the most far-reaching iteration to date. Our last year's report noted the growing popularity of so-called "clean slate" automatic⁴ record-clearing as a response to what researchers have called the "[uptake gap](#)" or "[second chance](#)

[gap](#)" in petition-based sealing and expungement schemes.⁵ The "gap" refers to the large percentage of a law's intended beneficiaries who are deterred from even applying for relief by multiple barriers to access like unclear eligibility criteria, burdensome application requirements, and intimidating court hearing procedures. Automatic relief laws close the gap by requiring the government to review their records and grant relief to all individuals who meet eligibility criteria established by law, without requiring those individuals to ask for it.

In 2020, a handful of states enacted less expansive automatic relief schemes, affecting non-conviction records, marijuana offenses, and juvenile adjudications. Counting 2020 enactments, a total of 21 states now provide for automatic or expedited sealing of non-conviction records, in line with recommendations of the model law developed in 2019 by a group of practitioners under CCRC's leadership.⁶ **Pennsylvania** eliminated barriers to existing automatic relief due to outstanding fines and fees; and extended automatic relief to pardoned convictions. **Louisiana** established a commission to study automation, and the **Washington** legislature's proposal to automate the state's vacatur relief went down to a governor's veto, who cited budgetary challenges during the pandemic.

While no other state came close to matching Michigan's broad record relief reforms in 2020, several states made significant additions to their existing petition-based schemes, including **Georgia**, which authorized sealing of convictions for the first time, as well as **Kentucky**, **Nebraska**, and **North Carolina**, all of which expanded

eligibility. Several other states also broadened relief for victims of human trafficking, marijuana offenses, and increased opportunities to avoid a conviction record through diversion and deferral and other non-conviction dispositions. Nearly every state has now enacted specialized relief for victims of human trafficking; and 23 states have enacted marijuana expungement laws.

In 2020, three states (**Colorado, Idaho, and Nevada**) revised the process for considering pardon applications to expedite action. Governors of **Colorado** and **Illinois**, as well as the **Nevada** pardon board, pardoned a large number of individuals convicted of minor marijuana offenses. The governor of **California** established a special pardon process to address systemic inequities relating to the criminalization of LGBTQ people and the governor of **Texas** created a specialized pardon form for survivors of human trafficking and domestic violence.

Occupational licensing and employment

Of all the reforms enacted during this modern reintegration movement, no other approaches the regulation of occupational licensing agencies in breadth, consistency, and likely efficacy. Occupational licenses control access to a substantial segment of the workplace (as much as 25%), and represent a gateway to the middle class, particularly for people who may have learned a trade or gained a skill while in prison. Since 2017, more than half the states have enacted laws imposing standards on agency decision-making where criminal records are concerned and providing applicants a range of procedural protections.

Of all the reforms enacted during this modern reintegration movement, no other approaches the regulation of occupational licensing agencies in breadth, consistency, and likely efficacy.

In 2020, 11 states enacted 19 laws limiting consideration of criminal records by occupational licensing agencies. The year saw a continued expansion of ambitious regulatory schemes that replace vague “good moral character” criteria with detailed “direct relationship” standards, and that require licensing agencies to justify negative decisions in public safety terms. Four states (**Idaho, Iowa, Missouri, and Rhode Island**) regulated licensing agencies statewide for the very first time in 2020, two other states (**Utah** and **West Virginia**) improved upon their first venture into licensing regulations in 2019, and **Pennsylvania** brought up to date licensing standards originally adopted in an earlier era of reform in the 1970s. A handful of other states made less significant changes to their occupational licensing schemes.

As to fair employment laws, two states (**New Hampshire** and **Virginia**) enacted a ban-the-box law applicable to public employment, while **North Carolina**’s governor

issued a broad executive order that not only prohibited public employers from making application-stage inquiries, but also established standards for considering criminal records thereafter. **Maryland's** legislature overrode a governor's veto to apply application-stage limits on inquiry to private employers with more than 15 employees. **Hawaii** amended its venerable fair employment law to reduce the periods after which a conviction may not be considered by employers. A total of 36 states, D.C., and the federal government now require public employers to consider applicants' qualifications before their criminal histories, while 14 states cover private employers as well.

Public benefits

The **federal government** and three states (**Michigan, South Dakota, and Virginia**) made it easier for people with a record to access public benefits, including financial aid higher education, food assistance, and financial support for families. Notably, Congress' year-end stimulus bill ended two longstanding criminal record barriers to financial aid for higher education.

Also, in the spring, the federal government issued unusually broad criminal history restrictions on COVID-19-related financial assistance for small businesses, an issue that CCRC [first documented, and covered extensively](#). During the summer, the administration rolled back most of these restrictions [in the face](#) of opposition from members of Congress, litigation, and advocacy (including by CCRC), enabling small business owners with a previously disqualifying record to apply during extensions of the programs.

Other relief measures

Nine states enacted 16 "free to drive" laws limiting suspension of driver's licenses based on unpaid court debt or violations unrelated to dangerous driving.

One state eliminated consideration of records in higher education admissions, two states revised sex offense registration rules, one state rolled back immigration checks for detained individuals, and another required prison reentry plans. No states addressed housing barriers, though some localities did.

Looking ahead to 2021

The legal landscape at the end of 2020 shows states continuing to experiment with different types of relief to advance a reintegration agenda. The crisis of the pandemic may have slowed the legislative momentum seen in 2019, but it certainly did not bring it to a halt. In 2021, we predict a continuing expansion of record-clearing opportunities, both for conviction and non-conviction dispositions. We also expect additional efforts to automate record relief, which in turn will necessitate

The legal landscape at the end of 2020 shows states continuing to experiment with different types of relief to advance a reintegration agenda.

simplification of eligibility criteria and improved records management by courts and repositories, which should lead to better coordination of state and federal records systems and more reliable criminal background checks.

Elimination of bars to occupational licensing will also continue to be a top priority, given the bipartisan support for these regulatory reforms. So will expansion of diversionary and deferred

dispositions, which we were pleased to see in the Business Roundtable’s “[second chance agenda](#).”

We also hope for continued progress toward restored voting rights for—at the very least—all citizens living in the community, without regard to whether they have completed supervision or paid off [court-ordered financial obligations](#). Other issues that should be addressed by the states are the extension of fair employment and housing laws to cover discrimination based on criminal record, matters of particular importance in light of the pandemic and economic crisis.

We hope that Congress will make available federal statutory restoration mechanisms to supplement presidential pardons

Finally, we hope Congress will work to make available to people with federal convictions the same type of statutory restoration mechanisms that are available for people with state convictions, [to supplement if not largely replace](#) presidential pardons as a routine record relief mechanism. For example, the absence of any statutory or administrative mechanism for restoring firearms rights to people with a federal

conviction has swelled pardon case backlogs at the Justice Department in the past 25 years, an issue that should be addressed by the incoming administration.

Congress could usefully expand the existing federal deferred adjudication statute⁷ to cover any probation-eligible offense, since avoiding a conviction record is infinitely preferable to trying to neutralize one after the fact. Another area that Congress should reconsider is how federal law treats state non-conviction dispositions like diversion and deferred adjudication, which have unfairly been treated like convictions under immigration law, the Fair Credit Reporting Act, Small Business Administration regulations, criminal history provisions of the Federal Sentencing Guidelines, and other areas of federal law.⁸

In short, in 2021 we expect to see a continuation of recent years’ commitment to fair treatment of people with a criminal record in legislatures, in state houses, and in

courts. In this regard, three projects we intend to focus on this year are improving access to petition-based felony expungement, putting together a set of best practices for court-managed diversionary programs, and advising jurisdictions on legislative reforms. We will develop an agenda of statutory and regulatory proposals for the federal system as well. Throughout, we hope to encourage a conversation about the vexing problem of unclear and inconsistent terminology that frustrates the development of a consistent national record relief policy.⁹

We will also look for opportunities to advocate for improvements in specific laws and record relief programs, and to participate as *amicus curiae* in promising litigation involving restoration of rights. And, of course, we will continue to update the Restoration of Rights Project as laws are enacted, report periodically on significant new authorities, and sum up each year's work at its conclusion.

REPORT CARD

This year we are continuing the practice begun last year of preparing a “Report Card” on how state legislatures performed in 2020 in advancing the goals of reintegration. Like last year, not all states are mentioned, only those we judged most and least productive. We hope this feature of our annual report will inspire legislatures across the Nation and serve as a tool for legislative advocates. (A more comprehensive 50-state grading system is incorporated into our national report [The Many Roads to Reintegration](#) and accompanying [Reintegration Report Card](#))

This year **Michigan** gets the top mark as our Reintegration Champion for the most consequential legislative record of any state in 2020, enacting a remarkable 26 bills addressing record relief, diversion, occupational licensing, driver’s license suspension, sex offense registration, and public benefits.

Most notably, Michigan’s new “clean slate” record relief scheme is even more ambitious than the reform that earned New Jersey the title of Reintegration Champion in 2019. Like New Jersey, Michigan substantially expanded the number of convictions eligible for petition-based sealing and directed the development of an automated sealing system applicable retroactively to a wide range of misdemeanor and felony convictions going back decades. Unlike New Jersey’s automation program, which has no timetable for coming online, the Michigan scheme by law must be made operational within two years. Michigan also significantly expanded record relief for juvenile records and marijuana offenses. In other relevant reforms, Michigan limited the kinds of criminal records that can be considered by occupational licensing agencies, barred suspension of driver’s licenses for a range of legal violations unrelated to dangerous driving, repealed bans on federal food and family assistance due to felony drug convictions, and revised its sex offender registration scheme.

Michigan gets the top mark as Reintegration Champion of 2020, notably for the significant expansion of its record-clearing laws.

As runner-up, Utah enacted seven separate laws on diversion, occupational licensing, and record-sealing.

Utah is runner-up for our Reintegration Champion award, based on a prolific legislative record that addressed issues as various as diversion, occupational licensing, and record-sealing in a total of seven separate laws. Utah’s productive 2020 followed an equally productive 2019, when its legislature authorized automated

expungement of many misdemeanor convictions and non-conviction records and took major steps toward regulating occupational licensing agencies.

Honorable mention for a productive legislative season goes to seven states. **California, Louisiana, and Virginia** each enacted a number of new authorities intended to promote reintegration, and California restored the vote to parolees by a ballot measure amending the state's constitution. Virginia's legislature deserves special recognition for having enacted 10

Honorable mention goes to 7 states, 4 of which enacted extensive schemes regulating occupational licensure for the first time.

separate laws after many years of producing little or nothing related to restoration of rights. **Idaho, Iowa, Missouri, and Rhode Island** all passed impressive schemes to regulate consideration of criminal record in occupational licensure for the first time.

Low marks go to four of the states that enacted no record reform laws at all in 2020. While there are many states in this category this year, likely because of the distractions and burdens of the pandemic, the legislatures of **Alaska, Kansas, Massachusetts, and Wisconsin** earn their place at the bottom of the heap for having been equally unproductive in 2019, a year when almost every other state passed at least some law limiting access to and use of criminal records.

We conclude by noting that many of 2020's new laws were enacted after state legislatures were virtually shut down by the pandemic. (Indeed, several provisions of the most recent federal pandemic stimulus bill qualify for inclusion in this report.) This seems to us evidence that criminal record reform is now regarded as central to the Nation's legislative agenda. We anticipate that in the coming year Congress and states that have been comparatively cautious in their recent law-making will be inspired to take larger steps to limit discrimination based on criminal record, as they see what more ambitious jurisdictions have already been able to accomplish.

VOTING RIGHTS

The loss and restoration of the right to vote due to conviction depends upon state law, including for federal convictions.¹⁰ For an overview of loss and restoration of voting rights, see our Sept. 2020 [national survey report](#) and Nov. 2020 [report](#) about court debt as a barrier to regaining the vote.¹¹

In 2020, four states expanded voting rights for people with a felony conviction, via ballot initiative, executive order, and legislation. The most significant changes were in **California**, where a ballot measure restored the vote to parolees, **Iowa**, where the governor restored the vote to most people who have completed incarceration and supervision for a felony, and the **District of Columbia**, which repealed felony disenfranchisement entirely to allow people in prison to vote.

- **California** passed a ballot measure that amends the state constitution such that people who have lost their voting rights (due to a felony conviction resulting in a state prison term) will have their voting rights restored once released from prison, even if on parole ([Prop. 17](#)). Cal. Const. Art. II s. 2, 4. The legislature authorized the ballot measure and adopted conforming legislation ([ACA 6](#) / [AB 646](#)).
- The **District of Columbia** repealed its felony disenfranchisement law and restored the vote to those currently incarcerated for a felony, including counseling of prisoners and provisioning of ballots ([B23-0324, 0825, -0826, -0907](#)). D.C. Code § 1-1001.01 *et seq.*
- **Iowa's** governor issued an Executive Order ([EO 7](#)) that restores the right to vote and hold office to any person who has “discharged his or her sentence upon completion of any term of confinement, parole, probation, or other supervised release for all felony convictions.” A person is restored even though they have not paid restitution and other court debt, but the order does not discharge it. The order specifically covers those convicted of federal and out-of-state offenses. The governor will continue to restore these rights “on a daily basis beginning on August 6.” Those disqualified by a homicide conviction are excepted and must apply to the governor for relief. The legislature also enacted [SF 2348](#), which would restore the right to vote upon a person's discharge from a felony conviction, contingent on ratification of a constitutional amendment before January 1, 2023.
- **Nevada** enacted a technical fix to make clear that a person who lost the vote due to felony conviction is only disenfranchised while actually incarcerated ([AB 1](#)).

Unlike past years, 2020 saw no new laws specifically restoring rights to jury service, public office, or firearms, except to the extent that expanded record relief provisions (i.e., expungement, set-aside, or pardon) may restore these rights.

RECORD RELIEF

What we call “record relief” is a form of remedy that operates on the criminal record itself to reduce its negative effect. This section recaps last year’s record relief reforms in three categories: (1) expungement, sealing, and set-aside; (2) executive pardon; and (3) diversionary dispositions, including deferred adjudication.

1. Expungement, sealing, & set-aside

As in past years, the reform most frequently enacted in 2020 was the creation or expansion of mechanisms to limit access to criminal records or set aside convictions: 20 states enacted 35 bills and two ballot measures. As we have noted in earlier reports, the terms used to describe this form of relief vary by state, and the most common terms (expungement, sealing, vacatur, set-aside) do not necessarily have the same functional meaning from state to state.¹² Our recent [national survey](#) provides an overview of this complex area of law and policy. Further detail about a particular jurisdiction can be found in the [CCRC Restoration of Rights Project](#).

This haul of legislation is grouped by general conviction relief, automatic conviction relief, non-conviction records, marijuana offenses, offenses by victims of human trafficking, and juvenile records. At least seven bills that were vetoed, including three from Maryland and a significant one from Washington State, are described at the end.

A. General conviction relief (9 states, 14 bills)

Four states enacted major reforms expanding eligibility for petition-based conviction relief. **Michigan** significantly expanded sealing eligibility for misdemeanors and felonies. **Georgia** for the first time authorized the sealing of convictions, covering pardoned records and up to two misdemeanors. **North Carolina** broadened felony and misdemeanor eligibility criteria. **Nebraska** extended set-aside eligibility beyond only probation cases to include cases involving sentences of up to one year’s imprisonment.

- **Michigan** expanded petition-based eligibility for set-aside and sealing to an unlimited number of misdemeanors and up to three felonies, provided that no more than two convictions for assaultive crimes may be set-aside in a person’s lifetime, and no more than one conviction for the same offense may be set-aside if the offense is punishable by more than 10 years in prison ([HB 4984](#)). Mich. Comp. Laws § 780.621, *et seq.* [HB 4983](#) sets new waiting periods for seeking set-aside: more than one felony requires 7 years; one felony, or 2+ serious or assaultive misdemeanors requires 5 years; other misdemeanors require 3 years. These periods run from the latest of the following: imposition of sentence, completion of incarceration, and completion of supervision. [HB 4985](#) provides that in counting convictions for determining eligibility for set-aside and

sealing, crimes in the same 24-hour period arising from the same transaction are counted as a single offense unless they involve violence, guns, or a maximum sentence of 10+ years in prison. [HB 4981](#) specifies that set-aside and sealing is not available for felonies punishable by a life sentence; specified sex offenses; traffic offenses if they involved alcohol, injury or commercial licensees; and a felony domestic violence conviction if the person has a misdemeanor domestic violence conviction.

- **Georgia** made eligible for record restriction and sealing: pardoned convictions (except for serious violent felonies or sexual offenses), up to two misdemeanor convictions (excluding specified violent and sexual offenses), and various conditional discharges ([SB 288](#)). Ga. Code Ann. § 35-3-37.
- **North Carolina** enacted the Second Chance Act, which expands “expunction” opportunities and streamlines the process in a variety of ways, including providing mandatory expungement for 16- and 17-year olds convicted as adults before “Raise the Age” legislation, who meet certain criteria; broadened eligibility criteria for expungement of conviction records (i.e. allowing multiple non-violent misdemeanors to be expunged; treating multiple convictions in the same court session as one conviction, etc.) ([SB 562](#)). A more detailed summary is [here](#).
- **Nebraska** expanded eligibility for set-aside to people sentenced to a year or less in prison. Preexisting law permits a person sentenced to probation to petition the sentencing court to “set aside” the conviction upon completion of sentence. [LB 881](#), for the first time, allows a person who has completed a term of imprisonment of one year or less, to also petition to “set aside” their conviction, so long as: no charge is currently pending against them; they are not required to register under the Sex Offender Registration Act; the offense was not vehicular homicide; and they were not denied a set-aside within the previous two years. Neb. Rev. Stat. § 29-2264.

Five other states eliminated some eligibility barriers and streamlined procedures:

- **Louisiana** repealed a requirement that to expunge certain violent offenses, the person “has been employed for a period of ten consecutive years” ([HB 179](#)). La. C. Cr. Proc. Art. 978. The state also authorized expungement when a person is on parole; repealing requirements that no felony conviction was expunged in the last 15 years and no misdemeanor was expunged in the last 5 years; and repealing a requirement, where expungement is sought for DUI, that the person have had no arrest or conviction expunged in the past 10 years ([HB 241](#)). *Id.* Arts. 975, 977, 978. Finally, Louisiana modified its expungement forms to allow applicants to indicate if they had received a “first offender pardon” ([HB 194](#)).
- **Indiana** clarified that the waiting period for expungement for a felony reduced to a misdemeanor is five years from the date of conviction ([SB 47](#)). Ind. Code §§ 35-38-9-2.
- **West Virginia** authorized a state resident seeking expungement of convictions in multiple counties to file a single petition for expungement in their county of residence; and deleted a provision that a person may file only one expungement petition under

either the general expungement authority or the special treatment/job program authority ([SB 562](#)). W. Va. Code §§ 61-11-26, -26a.

- **Wyoming** provided that convictions for purchase, possession, or use of nicotine products by persons under 21 shall not be reported by the court to law enforcement agencies; and, upon payment of the fine, the conviction “shall be expunged by operation of law...six (6) months after the entry of conviction” ([SF 50](#)). Wyo. Stat. Ann. §§ 14-3-304, -305.
- **Utah** prohibited the Bureau of Criminal Identification from considering minor prior or pending cases, or any clean-slate-eligible cases, in determining whether to issue a certificate of eligibility for expungement ([HB 397](#)). Utah Code Ann. § 77-40-105(4).

B. Automatic relief (“clean slate”) (4 states, 5 bills)

In 2020, **Michigan** became the sixth state to enact automatic relief for a range of conviction records—a type of reform known as “clean slate,” championed by the [Clean Slate Initiative](#), among others. Michigan’s law is the [most expansive](#) automatic authority enacted to date. **Pennsylvania** improved its landmark 2018 Clean Slate Act, by eliminating barriers to relief based on unpaid fines and fees; and, automatically sealing pardoned convictions and expunging acquittals. **Louisiana** established a Clean Slate Task Force. And **Vermont** authorized automatic relief for marijuana possession. In addition, two states delayed or blocked automatic relief, as described below.

- **Michigan** authorized automatic set-aside and sealing for a range of convictions. An unlimited number of minor misdemeanors will be eligible seven years after imposition of sentence; and, up to four more serious misdemeanors and up to two felonies that are eligible for relief under expanded petition-based standards (see above) would be eligible 7 or 10 years after imposition of sentence or release from imprisonment, respectively, provided that the conditions in the petition-based standards are met (no pending charges in the state database, no additional convictions in the waiting period) ([HB 4980](#)). Mich. Comp. Laws § 780.622, *et seq.* For more serious misdemeanors and felonies, a person with more than one conviction for an assaultive crime (broadly defined) is ineligible for relief. Also, a broad range of crimes involving violence or dishonesty, or subject to a lengthy sentence, are ineligible. While restitution and other court debt need not be paid for a conviction to be expunged, a court may reinstate a conviction if a person “has not made a good-faith effort to pay” restitution. The law requires the system to be made operational two years after the effective date of the law, “subject to any necessary appropriation,” as well as a potential one-time 180-day extension at the governor’s request it cannot be implemented by the deadline “because of technological limitations.” See also the juvenile section for additional clean slate authority.
- **Pennsylvania** eliminated unpaid fines and fees (excluding restitution and a filing fee) as barriers to existing petition-based and automated sealing; authorized automatic sealing of pardoned convictions; and authorized automatic expungement of acquittals ([HB 440](#)). 18 Pa. Cons. Stat. § 9122.1, *et seq.*

- **Louisiana** established a Clean Slate Task Force to study the possibility of automating expungement ([HR 67](#)) and authorized access to criminal justice data for nonprofit partners providing technical assistance to this task force ([HB 2](#)).
- **Vermont** authorized automatic expungement of convictions involving possession of 2 ounces or less of marijuana entered prior to January 1, 2021, with expungement to be completed no later than January 1, 2022.

Also, **California** postponed implementation of its 2019 automatic record relief law from early 2021 to mid-2022. ([SB 118](#)). Cal. Penal Code §§ 851.93, 1203.425. **Washington** governor Jay Inslee vetoed an automatic conviction relief bill ([HB 2793](#)), predicated the veto on the economic burdens imposed on the state by the pandemic. Automation authorized in 2019 has also been delayed in **Utah** and **New Jersey** because of disruptions based on the pandemic.

C. Non-conviction records (4 states, 4 bills)

Two states (**Kentucky** and **North Carolina**) authorized the automatic sealing of many non-conviction records (with simplified petitions for others), consistent with a 2019 [model law](#) on non-conviction records developed by a group of practitioners under CCRC's leadership. This brings the total number of states with [automatic or expedited non-conviction relief](#) to 21.¹³ In addition, **Louisiana** clarified that dismissed diversion cases may be expunged; and **Illinois** extended a fee waiver for non-conviction relief.

- **Kentucky** significantly streamlined the expungement of non-conviction records ([HB 327](#)). For cases disposed after March 27, 2020, expungement of misdemeanor or felony charges resulting in acquittal or dismissal with prejudice ("not in exchange for a guilty plea to another offense") is automatic upon disposition. Ky. Rev. Stat. Ann. § 431.076. Cases disposed prior to that date, and felony cases in which charges have not resulted in an indictment, may be expunged on petition after 60 days. Cases in which charges were dismissed without prejudice are eligible for expungement three years after disposition for felony charges, and one year after disposition in the case of misdemeanor charge (reduced in both cases from five years). Expungement is mandatory for eligible cases (for unindicted felony cases, the prosecutor may obtain an extension of up to 180 days to file an indictment). Preexisting law required hearings and made expungement discretionary.
- **North Carolina** authorized automatic expungement of many non-conviction records and a streamlined petition process for others ([SB 562](#)).
- **Louisiana** made clear that a person can file a motion to expunge records if the district attorney declined to prosecute for the reason that the person successfully completed a pretrial diversion program ([HB 129](#)). La. C. Cr. Proc. Art. 976.
- **Illinois** extended the waiver of filing fees in large-counties for the sealing or expungement of non-conviction records ([SB 1857](#)).

D. Marijuana offenses (6 states, 5 bills, 2 ballot measures)

Marijuana expungement continued to accelerate across the country, as expungement has attained [a more prominent role](#) in the broader legalization movement. Six states enacted specialized marijuana relief laws in 2020, following 7 states (and D.C.) that did so in 2019, and 4 states in 2018—bringing the total number of states with [specialized marijuana expungement laws](#) to 23.

In Congress, the House passed the [Marijuana Opportunity Reinvestment and Expungement Act](#) in November. However, the Senate did not bring it up for consideration so it will have to be reintroduced in the new Congress.

Last year, **Arizona** and **Montana** approved ballot measures to authorize expungement for many marijuana offenses. **Vermont** made expungement automatic for marijuana possession of 2 ounces or less. **Michigan** and **Utah** streamlined marijuana relief procedures. **Virginia** restricted access to records of marijuana possession offenses.

- **Arizona** passed a marijuana legalization ballot measure that requires courts, upon petition, to expunge arrests, charges, and convictions for certain marijuana possession, consumption, transportation and cultivation offenses (effective July 2, 2021) ([Prop. 207](#)). Ariz. Rev. Stat. § 36-2862.
- **Michigan** streamlined petitions for marijuana misdemeanors with a presumption in favor of set-aside and sealing for offenses that have been decriminalized ([HB 4982](#)); and provided for a rehearing or appeal where set-aside of a marijuana misdemeanor is denied ([HB 5120](#)).
- **Montana** passed a marijuana legalization ballot measure that provides that a person serving a sentence—or who has completed a sentence—for an act now legalized or now punishable by a lesser sentence may petition for an expungement, resentencing, and/or redesignation ([I-190](#)). I-190 sec. 36 (2020).
- **Utah** made eligibility periods and the requirement of a certificate of eligibility inapplicable to convictions for possession of marijuana for medicinal purposes ([SB 121](#)) Utah Code Ann. § 77-40-103(5).
- **Vermont** authorized automatic expungement of convictions involving possession of 2 ounces or less of marijuana entered prior to January 1, 2021, with expungement to be completed no later than January 1, 2022 ([S.234](#)).
- **Virginia** decriminalized marijuana possession, restricted public access to records relating to past arrests, charges, or convictions for this offense, prohibited employers and educational institutions from inquiring about them, and prohibited state and local officials from requiring an applicant for a license, permit, registration, or governmental service to disclose information about them ([SB 2 / HB 972](#)). Va. Code Ann. §§ 18.2-250.1; 19.2-389.3.

E. Victims of human trafficking (3 states, 3 bills)

Since 2010, when New York authorized victims of human trafficking to vacate certain prostitution and related offenses from their criminal records, in response to the advocacy of sex workers' rights organizations, almost every state has enacted specialized laws for sealing, expunging, or vacating convictions related to being trafficked.¹⁴ While the early laws were narrowly focused on prostitution and related offenses, more recently additional offenses have been added. In 2020, three more states expanded relief in this area, after seven states and the District of Columbia did so in 2019, and 5 states in 2018.

- **Georgia** authorized petitions for vacatur, restriction, and sealing of convictions that occurred while a defendant was a victim of human trafficking ([SB 435](#)). Ga. Code Ann. §§ 17-10-21; 35-3-37(j)(6).
- **Maryland** expanded the vacatur authority for victims of human trafficking by authorizing relief for more offenses (previously only prostitution), simplified procedures, and made convictions that have been vacated eligible for expungement as a non-conviction record ([HB 242 / SB 206](#)). Md. Code Ann., Crim. Proc. §§ 8-302, 10-105(a)(13).
- **South Dakota** eliminated the requirement that a victim of human trafficking be over 18 years old to expunge a juvenile record; and authorized the victim to petition the court directly or through a parent, guardian, or guardian ad litem ([HB 1047](#)). S.D. Codified Laws § 26-7A-115.1.

F. Juvenile records (5 states, 6 bills)

- **California** strengthened requirements for the automatic sealing of juvenile records not resulting in an adjudication of guilt ([AB 2425](#)). Cal. Welf. & Inst. Code §§ 786.5, 827.95.
- **Michigan** enacted a juvenile clean slate law to make set-aside and sealing automatic for eligible adjudications, effective in mid-2023 ([SB 681](#)). Mich. Comp. Laws § 712A.18e, *et seq.* The state also enacted [SB 682](#), which makes records of juvenile proceedings confidential to all but “persons having a legitimate interest,” defined to include the juvenile, their parents or guardians, law enforcement, and certain agencies with responsibility for juvenile custody. Mich. Comp. Laws § 712A.28.
- **South Dakota** eliminated the requirement that a victim of human trafficking be over 18 years old to expunge a juvenile record; and authorized the victim to petition the court directly or through a parent, guardian, or guardian ad litem ([HB 1047](#)). S.D. Codified Laws § 26-7A-115.1.
- **Utah** enacted the Juvenile Expungement Act, which reorganizes earlier law, with a few major changes ([HB 397](#)). As under existing law, upon reaching age 18, a person with a juvenile record is eligible for expungement following a one-year waiting period and completion of all sentence requirements (which may be waived by the court). After a

hearing, the court may seal all the record if the individual has not, in the five years preceding, been convicted of a violent felony or have any proceedings pending. Utah Code Ann. § 78A-6-1505. Previously, expungement was unavailable to any person convicted of a felony or misdemeanor involving moral turpitude since the juvenile court's jurisdiction terminated. The bill also simplifies the process to expunge a record with only nonjudicial adjustments, without a hearing. § 78A-6-1504.

- **Washington** facilitated juvenile sealing by omitting the requirement of a hearing if the person is off supervision and has paid restitution ([HB 2794](#)). Wash. Rev. Code § 13.50.260.

G. Miscellaneous

- **Utah** expanded the authority of prosecutors to request that the court enter a judgment to a lower degree of the offense and impose a lower sentence, which is eligible for expungement ([HB 441](#)). Utah Code Ann. § 77-2-1.2.

H. Vetoes bills

In 2020, at least five governors vetoed record relief reforms:

- **Florida** governor Ron DeSantis vetoed a bill that would have provided for the non-disclosure of arrest records of minors who have completed diversion ([SB 1292](#)).
- **Maryland** governor Larry Hogan voted three record relief bills: (1) [HB 83](#) would have prohibited the Maryland Judiciary Case Search from in any way referring to the existence of a District Court criminal case in which possession of marijuana is the only charge in the case and the charge was disposed of before October 1, 2014; (2) [HB 1336](#) would have authorized petitions for a partial expungement, among other things; and (3) [SB 314](#) would have made various juvenile records confidential.
- **Michigan** governor Gretchen Whitmer, who signed 9 record relief bills in 2020, vetoed a 10th bill that would have authorized expungement of first-time DUI convictions ([SB 1254](#)).
- **Mississippi** governor Tate Reeves vetoed a bill that would have allowed expungement of up to three felonies (currently only one is eligible) ([SB 658](#)).
- **Washington** governor Jay Inslee vetoed a bill that would have provided automatic vacatur relief for a range of conviction records ([HB 2793](#)), predicated the veto on the economic burdens imposed on the state by the pandemic.

2. Executive Pardon

Four states addressed executive pardon through 2 bills, 2 executive orders, 2 ballot measures, and three states took other significant pardon policy actions.

Two states restructured their pardon boards to expedite relief:

- **Idaho** enacted a law expanding the authority of the Commission of Pardons and Parole to grant commutations and pardons for a range of offenses without the review of the Governor ([HB 427](#)).
- **Nevada** passed a ballot measure requiring the State Board of Pardons Commissioners, to meet four times per year, allowing any board member to submit an issue for the board's consideration, and providing that a majority of board members is sufficient to issue a pardon ([Question 3](#)).

Two governors launched specialized programs for groups subject to unjust criminalization and victimization:

- **California** governor Gavin Newsom issued an executive order launching a clemency effort to address the unjust criminalization of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people ([EO N-24-20](#)).
- **Texas** governor Greg Abbott created a [specialized clemency application](#) for survivors of human trafficking and domestic violence, and launched a public awareness campaign to inform survivors that they can apply.

Three governors were authorized to pardon large numbers of individuals with marijuana convictions:

- **Colorado** enacted a law authorizing the governor to pardon a class of defendants who were convicted of possession of up to two ounces of marijuana, without the requirement of an application ([HB 20-1424](#)). Colo. Rev. Stat. § 16-17-102(2). Pursuant to this law, Gov. Jared Polis issued an Executive Order pardoning all individuals who have been convicted of possession of one ounce or less of marijuana in Colorado ([EO C 2020 004](#)).
- **Nevada** governor Steve Sisolak recommended to the Board of Pardons Commissioners, which [approved the resolution](#), pardons for all individual convicted of possession up to one ounce of marijuana from January 1986 to January 2017 in Nevada, covering [more than 15,000](#) people.
- **Illinois** governor J.B. Pritzker [pardoned](#) people for 9,219 low-level marijuana convictions pursuant to a 2019 marijuana expungement and pardoning [law](#), bringing the total of pardons under that law to over 20,000 (along with the expungement of almost 500,000 non-conviction records).

3. Diversiónary Dispositions

In 2020, Congress and 7 states enacted 15 laws creating, expanding, reorganizing, or otherwise supporting diversionary and deferred dispositions, to enable individuals subject to investigation or charges to avoid a conviction record. These new authorities reflect the clear trend across the country toward increasing opportunities to steer certain categories of individuals out of the system, through informal diversions, specialized treatment or intervention courts, or court-managed probation following deferral of judgment or suspension of sentence.

Key developments include the creation of specialty courts for veterans, mental health, behavioral health, and developmental disability, expansion of eligibility for existing diversion and deferred adjudication programs, and authorization of record-sealing in diverted and deferral cases:

- **Congress** directed the Justice Department of Justice to establish a Veterans Treatment Court Program to provide grants and technical assistance to state, local, and tribal governments ([H.R.886](#)). P.L. 116-153, Veteran Treatment Court Coordination Act of 2019.
- **California** authorized a superior court judge to place a defendant on misdemeanor diversion, over the objection of the prosecutor, with certain offenses excluded from eligibility ([AB 3234](#)). Cal. Penal Code §§ 1001.95 - 1001.97. The state also expanded developmental disability diversion ([AB 79](#)). Cal. Penal Code § 1001.21 - 1001.29
- **Colorado** expanded a mental health diversion pilot to include more districts and participants ([HB 20-1393](#)), authorized the creation of behavioral health diversion programs, and provided that if a person petitioning to seal records has completed a substance use treatment program as part of the case sought to be sealed, the court shall consider the treatment favorably in determining whether to seal ([HB 20-1017](#)). Colo. Rev. Stat. §§ 18-1.3-101.5, 24-72-703(10.5), 27-60-106.
- **Hawaii** authorized persons charged with misdemeanor domestic abuse to enter a deferred acceptance of guilty plea ([SB 2638](#)). Haw. Rev. Stat. § 709-906. The state also authorized judges, at any stage of a proceeding, if there is reason to believe that physical or mental health is an issue, to enter into an agreement with the parties to divert the case into evaluation, treatment, or specialized courts ([HB 1620](#)). Haw. Rev. Stat. § 704-407.5.
- **Louisiana** expanded eligibility for felony probation and deferral or suspension of a sentence, by allowing participation up to two times (instead of once) and allowing participation by persons charged with certain drug offenses carrying up to a ten years (instead of five years) in prison ([HB 178](#)). La. C. Cr. Proc. Art. 893. The state also made clear that a person can file a motion to expunge records if the district attorney declined to prosecute for the reason that the person successfully completed a pretrial diversion program ([HB 129](#)). La. C. Cr. Proc. Art. 976.

- **Michigan** extended eligibility for youthful trainee deferred judgment to 24- and 25-year-olds ([SB 1049](#)). Mich. Comp. Laws § 762.11.
- **Utah** authorized the establishment of veterans treatment courts ([HB 100](#)) and revised the term lengths for plea in abeyance agreements, to align with guidelines developed by the Sentencing Commission ([SB 188](#)). Utah Code Ann. § 77-2a-2.
- **Virginia** enacted three bills addressing these issues. [SB 5033 / HB 5062](#) authorizes a court to defer proceedings in a criminal case, upon the agreement of the Commonwealth and defendant, and considering the facts of the case (notwithstanding entry of a conviction order) and continue the case on reasonable terms and conditions agreed upon by the parties or imposed by the court. Final disposition may include dismissal, conviction of the original charge, or conviction of an alternative charge. Va. Code Ann. § 19.2-298.02. [SB 133](#) allows a court, if the defendant has been diagnosed with autism or an intellectual disability, to defer judgment in a criminal case (certain offenses are ineligible), if the court finds by clear and convincing evidence that “the criminal conduct was caused by or had a direct and substantial relationship to the person's disorder or disability.” § 19.2-303.6. The Behavioral Health Docket Act authorizes the creation of specialized behavior health dockets to address individuals in the criminal justice system with mental health conditions and drug addictions ([SB 818](#)).

OCCUPATIONAL LICENSING AND EMPLOYMENT

1. Occupational licensing

Of all the criminal record reforms enacted during this modern reintegration reform era, no other approaches the regulation of occupational licensing agencies in terms of breadth, consistency, and likely efficacy.

In 2020, 11 states enacted 19 laws limiting consideration of criminal records by occupational licensing agencies. Four states (**Idaho, Iowa, Missouri, and Rhode Island**) regulated licensing agencies statewide for the very first time; two other states (**Utah and West Virginia**) improved upon their first venture into licensing regulation in 2019; and **Pennsylvania** made improvements in licensing standards originally adopted in an earlier era of reform in the 1970s.

These enactments continue a trend begun in 2017 that has transformed the licensing policy landscape across the Nation and opened opportunities in regulated professions for many thousands of people. As explained in our national report [The Many Roads to Reintegration](#), these licensing reforms are particularly important in supporting reintegration, since [studies](#) have shown that more than 25% of all jobs in the United States require a government-issued license. Occupational licenses offer a gateway to the middle class, particularly for people who may have learned a trade or gained a skill while in prison.

The new wave of licensing reforms resurrects a progressive approach to occupational opportunity that dates from the 1970s. In recent years it has been strongly influenced by model legislation developed by the Institute of Justice (IJ), a libertarian public interest law firm, and the National Employment Law Project (NELP), a workers' rights research and advocacy group. Despite their origin in differing regulatory philosophies, the [IJ](#) and [NELP](#) model laws reflect a similar approach: they 1) limit the kinds of records that may result in disqualification, rejecting vague "good moral character" and other criteria irrelevant to competence; and 2) insist that individual denials be grounded in findings of rehabilitation and public safety with rigorous due process guarantees, making agency procedures more transparent and accountable. In the IJ model, applicants may seek binding preliminary determinations of qualification, and agency compliance is monitored by disclosure and reporting requirements. Some of the more familiar provisions of these new laws are drawn from the IJ or NELP models:

- *Preliminary determination*: Providing for a preliminary determination of qualification, for a small fee with quick turnaround and written reasons

- *Relevant standards*: Deleting vague standards like “good moral character” in favor of standards likely to evidence low risk and rehabilitation
- *Prohibited considerations*: Barring consideration of certain types of records and other types after a specified time
- *Transparency*: Requiring agencies to publish a list of disqualifying convictions and to provide written reasons for rejection in individual cases
- *Accountability*: Including reporting requirements intended to monitor agency compliance.

The new occupational licensing laws in 2020 are summarized below:

- **Colorado** enacted the “Occupational Credential Portability Program,” which authorizes approval of an application for reciprocal licensure by anyone licensed in another jurisdiction, apparently without regard to whether they meet Colorado’s standards for licensure that relate to consideration of criminal record, unless they have committed an act that would be grounds for disciplinary action in Colorado ([HB 20-1326](#)). Colo. Rev. Stat. §§ 12-20-202(3)(a), (b), (f)(III). In addition, [HB 20-1424](#) creates “social equity licenses” to operate legal marijuana businesses, available to people who: (1) themselves or their family members were arrested, convicted, or subject to a civil forfeiture for a marijuana offense; (2) have a low income; or (3) live in an “opportunity zone” or “disproportionate impacted area.”
- **Iowa** had no general law regulating consideration of criminal record in occupational licensing prior to 2020. [HF 2627](#) adds a new section to Chapter 272C of the Iowa Code to impose an unusually robust and license-specific “direct relationship” test on all but a few health-related licenses. Each covered board must provide a list of offenses that “directly relate[] to the duties and responsibilities of the profession,” and may not deny a license based on non-conviction records or any finding that an applicant “lacks good character” or “suffers from moral turpitude.” Iowa Code Ann. §272C.15. Under the new section, an agency “shall grant” an exception to an individual “who would otherwise be denied a license due to a criminal conviction” if the individual is determined to be rehabilitated and an “appropriate candidate for licensure” based on a list of factors that include the nature and seriousness of the crime, the passage of time, and other mitigating or aggravating factors.

There is a rebuttable presumption that an applicant is “rehabilitated” five years after release from incarceration unless the conviction was for certain violent or sexual crimes. The board shall consider whether a “certification of employability” has been issued and any letters of reference. A prospective applicant may petition for a preliminary determination, for which a board may charge a fee of \$25. Grounds for denial must be in writing, and the applicant must be given an opportunity to appeal and informed that evidence of rehabilitation will be considered on reapplication. The board’s findings on each criterion specified must be “sufficient for review by a court.” The board has the burden of proving direct relationship. An individual may be requested to submit a “complete criminal record,” which includes the complaint and judgment for each conviction.

- **Idaho** had no general law regulating consideration of criminal record in occupational licensing, prior to 2020. [SB 1351](#) adds a new chapter 94 to Title 67 of the Idaho Code, inter alia establishing a committee "to study and review occupational licensing and certification laws in general in order to determine, as applicable, how the legislature may be able to ease occupational licensing barriers while still protecting the public health and safety." The new law authorizes a non-binding preliminary determination as to whether a person's conviction would be disqualifying, and establishes a multi-factor test to determine whether a person's criminal record is "currently relevant to the applicant's fitness" to engage in the occupation.

A license may not be denied on the basis of "vague or generic terminology related to a criminal conviction, including but not limited to 'moral turpitude' or 'moral character.'" "Where such terms appear in code or rule with respect to a criminal conviction, a licensing authority shall conduct a relevancy evaluation pursuant to subsection (1) of this section." The "relevancy" standard was inserted in a variety of licensing chapters as a basis for denial or revocation of a license, replacing a formulation that permitted adverse action based on "conviction of any felony, or conviction of any other crime involving moral turpitude." It was also inserted into the rules of the division of human resources and the personnel commission that regulate public employment in the state.

- **Louisiana's** [SB 354](#) provides for issuing a card to individuals leaving prison that includes a list of all vocational licensing and certification programs completed while incarcerated.
- **Michigan** enacted a series of bills applicable to occupational licensure to limit agency consideration of certain types of criminal record. [HB 4488](#) and related bills retained the standard of "good moral character" as a basis for restricting licenses to those with a criminal record but limited it for most licenses to exclude non-convictions, misdemeanors that do not carry a prison term, and convictions "unrelated to an individual's capacity to serve the public." The new law requires each licensing agency to specify the crimes that are likely to fall into the last-mentioned category. They must also provide a statement of reasons in the event of denial ("including a complete record of the evidence upon which the determination was based"), an opportunity to appeal, and judicial review. An annual report must be submitted with the number of applications denied because of lack of good moral character and a summary of the convictions on which denials were based.
- **Missouri** provided very little protection to a person with a criminal record in the licensing process prior to 2020. The Fresh Start Act ([HB 2046](#)) requires that a disqualifying criminal record must be "directly related" to the license, also specifying that certain violent crimes "shall" be considered "directly related" to whatever license is involved even if sentence is not imposed. Drug crimes "may" be disqualifying for certain occupations, while fraud offenses "may" be disqualifying for other occupations. If convicted of a lesser included offense, the period of disqualification as "directly related" lasts only for four years after release from incarceration. "Direct relationship" is determined by a multi-factor test. Applicants may apply for a preliminary determination that is binding on the agency. If a person is denied a license, they have a right to a hearing, as well as written findings addressing each factor on which the agency relied sufficient for a reviewing court. "In any administrative hearing or civil litigation authorized under

this subsection, the licensing authority shall carry the burden of proof on the question of whether the applicant's criminal conviction directly relates to the occupation for which the license is sought." The new law does not apply to significant classes of licenses, including teachers, various health professionals, accountants, real estate brokers and agents, and peace officers.

- **Pennsylvania** enacted [SB 637](#) to bolster its weak occupational licensing law dating from the 1970s. SB 637 supersedes any law that disqualifies an individual for a license or provides for "good moral character" findings, requires that there be a "direct relationship" between the crime and the profession and whether licensing the individual poses a public safety risk, as determined by an "individualized assessment" under a long list of specified factors. It excludes those convicted of sexual offenses from health care licensure and establishes a separate set of standards for those convicted of violent crimes. Prohibits consideration of juvenile adjudications, non-conviction records, and records of convictions that have been expunged or sealed). It also authorizes restricted licenses for applicants who cannot immediately demonstrate fitness due to a criminal conviction, and it provides for a "preliminary determination" for applicants considering undergoing training for a license, which is binding unless the crime is one on the list of crimes "directly related," in which case it may be subject to further inquiry when a formal application is filed.

The law falls short in not ruling out consideration of dated or minor convictions, although it does rely on a public safety standard for denial of a license and gives those recently released from prison a chance to demonstrate their abilities. While existing law requires boards to defend record-related denials with written reasons, neither old nor new law provides an opportunity for an administrative appeal, requiring a disappointed applicant to file a lawsuit.

- **Rhode Island** enacted its first generally applicable law regulating the occupational licensing process, extending it as well to professional and business licenses issued by state agencies. [S 2824](#) applies a "substantial relationship" standard to licensing boards under most departments of state government, establishes standards for determining substantial relationship, excludes certain records from consideration, allows applicants to establish rehabilitation by detailed standards, provides detailed procedures in the event of denial, suspension or revocation, and includes accountability standards. Records that may not be considered include non-conviction records, juvenile records, expunged records, records of misdemeanors that may not be punished by incarceration, and any crime that is not substantially related. If a licensing authority intends to deny, suspend, or revoke an occupational license solely or in part because of a conviction, the person must be given reasons in writing, and if the conviction is "substantially related" an analysis under each of the criteria. The person must be permitted to respond and given an opportunity to appeal. Every agency must post on its website each year a report with "(1) the number of applicants granted licenses, the number of applicants denied licenses for any reason, and, to the extent available, the demographic breakdown of the applicants, including race, ethnicity, and gender, and city or town of residence; and (2) The number of applicants denied solely, or in part, because of a criminal conviction. The law took effect on January 1, 2021.

- **Utah**'s legislature acted to enhance a 2019 law that provided for a preliminary determination of qualification for licensure applicable to many state licensing boards, upgrading its standard for decision-making from "reasonable relationship" to "substantial relationship." [SB 201](#) takes regulation of licensing a step further, establishing heightened standards for consideration of licensure of applicants with criminal records. Licensing boards must "provide individualized consideration to the applicant or licensee," and "determine whether the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely or competently practice the occupation or profession." In this determination the board will "consider the applicant's or licensee's current circumstances" measured by a number of the customary factors such as age when offense committed, time since conviction, and various indicia of rehabilitation. Applicants are provided an opportunity to appeal a denial. Utah Code Ann. § 58-1-402. Certain convictions are per se "not evidence of unprofessional conduct," including non-convictions, and convictions where seven years have passed since release from incarceration without a conviction or guilty plea. Convictions for violent and sexual crimes, and for fraud or embezzlement are excepted. § 58-1-501(4).
- **Vermont** has very weak regulation of occupational licensing agencies, allowing denial or discipline for "unprofessional conduct" based on "[c]onviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession." [S.233](#) did nothing to tighten this standard, providing only that its licensing boards must offer interested persons a pre-application determination regarding whether their criminal background will be disqualifying. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure. An applicant would pay a \$25 fee for this so-called "second chance determination," and this fee would be deducted from the license application fee if the applicant does thereafter seek licensure. The new law applies to the professions and occupations regulated by the Office of Professional Regulation, the Department of Environmental Conservation (for well drillers), the Standards Board for Professional Educators, the Board of Medical Practice, the Electricians' Licensing Board, and the Plumbers' Examining Board.
- **Washington** enacted [HB 2870](#) to create a "social equity program" to reduce barriers to entry to the cannabis industry for individuals and communities most adversely impacted by the enforcement of cannabis-related laws.
- **West Virginia** enacted two laws ([HR4352](#) and [HR4353](#)) extending regulation enacted in 2019 to a variety of different licenses, applying a "rational nexus" standard for denial, lifting mandatory bars after five years, and authorizing a preliminary determination.

2. Employment

In 2020, 6 states expanded access to employment for people with a record through 7 bills and one executive order. Two states (**New Hampshire** and **Virginia**) enacted a ban-the-box law applicable to public employment, while **North Carolina**'s governor issued a broad executive order that not only prohibited public employers from

making application-stage inquiries, but also established standards for considering criminal record thereafter. **Maryland**'s legislature overrode a governor's veto to apply application-stage limits on inquiry to private employers with more than 15 employees. **Hawaii** amended its venerable fair employment law to reduce the periods after which a conviction may not be considered by any employers.

Overall, however, these 2020 laws had limited effect on the fair employment landscape. At the end of 2020, there are still only four states ([California](#), [Hawaii](#), [New York](#), and [Wisconsin](#)) that include discrimination based on criminal record as part of their general fair employment scheme, and all but California's law were enacted many years ago. [Colorado](#), [Connecticut](#), and [Nevada](#) have, like [Illinois](#), more recently prohibited some employers from considering certain criminal records, but those prohibitions are not fully integrated into a broader nondiscrimination law.

Most of the fair employment laws recently enacted involve fairly modest limits on application stage inquiry. The National Employment Law Project keeps a [running tab](#) of new "ban-the-box" laws, and reported in September 2020 that 36 states and more than 150 municipal and county ordinances now require public employers to consider applicants' qualifications before their criminal histories, with 14 extending these limits to private employers. However, as noted in our [Many Roads](#) report, few of these laws include the kind of robust post-inquiry standards that make the 2020 North Carolina Executive Order described below stand out.

The new employment laws and orders in 2020 are described briefly below:

- **Hawaii** shortened the lookback period in which a person may be disqualified based on conviction under its fair employment law, to seven years for felonies and five years for misdemeanors, excluding periods of incarceration ([SB 2193](#)). Hawaii includes discrimination based on conviction record in its more general fair employment practices law, and under preexisting law it is an unlawful employment practice to inquire into arrest and conviction records before the employee receives a conditional offer of employment, and an employer could withdraw an offer only if a conviction within the previous 10 years (exclusive of any period of incarceration) "bears a rational relationship to the duties and responsibilities of the position." Under this new law, 10-year period is reduced to 7 years for felonies and 5 years for misdemeanors.
- **Maryland** enacted a ban-the-box law applicable to private employers with more than 15 employees, overriding Governor Hogan's veto. The law prohibits inquiry into an applicant's criminal record until the first interview; and authorizes civil penalties. Certain employment is excepted. The law specifically does not preclude local jurisdictions from imposed stricter standards ([HB 994](#)). Md. Code Lab. & Empl. § 3-1403.
- **North Carolina**'s governor issued an executive order ([EO 158](#)), which directs all state agencies to remove questions about criminal record from employment application forms, and to defer inquiries until "the completion of the initial job interview." The order further

prohibits agencies from considering the following: (i) expunged or pardoned convictions, (ii) charges or convictions that do not relate to the underlying employment matter, (iii) arrests not resulting in a conviction, or (iv) charges resulting in dismissal or not guilty. State employment decisions “shall not be based on the criminal history of an individual unless that criminal history is demonstrably job-related and consistent with business necessity associated with the position, or if state or federal law prohibits hiring an individual convicted of certain crimes for a particular position.”

- **New Hampshire** prohibited an application-stage inquiry into criminal record in public employment prior to the initial interview, “unless the public employer is required to screen applications for specific criminal convictions because it is prohibited from hiring those with such convictions under state or federal law” ([HB 253](#)). N.H. Rev. Stat. Ann. § 275:37-c(II).
- **Utah** removed an absolute barrier based on certain convictions for employment with vulnerable populations, if the applicant will be serving only adults whose only impairment is a mental health diagnosis. In addition, certain convictions cannot be disqualifying after 10 conviction-free years for felonies, and three years for misdemeanors ([HB 436](#)).
- **Virginia** prohibited inquiry into criminal record by public employers prior to interview. Excepts law enforcement employment and certain other sensitive employments ([HB 757](#)). Va. Code Ann. §§ 2.2-2812.1, 15.2-1505.3.
- **Virginia** added crimes to the list for which an exception is available for employment with a substance abuse or mental health program at community services boards and private providers of behavioral health services licensed by the Department of Behavioral Health and Developmental Services. This law also allows the Department to hire individuals convicted of various crimes at a state facility if the Department determines the individual has been rehabilitated successfully and is not a risk to those receiving services ([HB 1540](#)). Virginia also decriminalizes marijuana possession, restricted public access to records relating to past arrests, charges, or convictions for this offense, prohibited employers and educational institutions from inquiring about them, and prohibited state and local officials from requiring an applicant for a license, permit, registration, or governmental service to disclose information about them ([SB 2 / HB 972](#)). Va. Code Ann. §§ 18.2-250.1; 19.2-389.3.

PUBLIC BENEFITS

Student financial aid

As part of the December 2020 COVID-19 stimulus package, **Congress** ended a 26-year ban on incarcerated students receiving Pell Grants (higher education grants and subsidies), a long-standing goal for criminal justice reformers that attained bipartisan support in recent years ([H.R.133](#)). The stimulus bill also restored Pell grant eligibility to those civilly confined for treatment for sexual offenses under state law.

The stimulus bill removed a question from the federal student financial aid application (FAFSA) that barred those with drug convictions from applying. (Congress in 2006 had narrowed the original 1996 FAFSA question to cover only current students convicted of drug offenses). Still, under a separate 1988 law, students convicted of drug offenses can have federal benefits taken away.¹⁵

Food and family assistance

A 1996 federal law bans people with felony drug convictions (for conduct after Aug. 22, 1996), from receiving Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance to Needy Families (TANF) benefits, but the law allows states to opt out, on a complete or partial basis. 21 U.S.C. § 862a. Bans on food assistance based on convictions are associated with increased risks of recidivism, poor health outcomes, and food insecurity, issues exacerbated by the COVID-19 crisis.¹⁶

In 2020, three states opted out of this federal ban on benefits due to felony drug convictions as follows: **Michigan** fully opted out of the SNAP ban ([SB 1006](#)) and opted out of the TANF ban so long as the person "is not in violation of...probation or parole requirements" ([HB 5396](#)). **South Dakota** fully opted out of the TANF ban ([SB 96](#)) (the state has already fully opted out of the SNAP ban). **Virginia** fully opted out of both the SNAP and TANF bans ([HB 566 / SB 124](#)). After these reforms, 25 states retain partial SNAP bans; South Carolina retains a full SNAP ban.¹⁷ A somewhat higher number of states retain partial or full TANF bans.¹⁸ In 2019, the U.S. Commission on Civil Rights called on Congress to eliminate SNAP and TANF restrictions based on convictions.¹⁹

Small business assistance

In Spring 2020, after Congress [authorized](#) hundreds of billions of dollars for small business relief during the early months of COVID-19, the Small Business Administration (SBA), by rule and by policy, imposed [broad restrictions](#) on applicants with an arrest or conviction history. Alerted to the problem by emails from affected small business owners, CCRC identified its source and extent, and collaborated with a consortium of other organizations to persuade the SBA to roll back these restrictions. As we [documented](#), these criminal history restrictions, neither required

nor contemplated by Congress, impeded access to the Paycheck Protection Program (PPP) and the Economic Injury Disaster Loan (EIDL) program, for small business owners, sole proprietors and nonprofits.

Facing a [chorus of criticism](#), and the introduction of a [bipartisan Senate bill](#) to roll back most of the PPP criminal history restrictions, SBA [eased](#) some restrictions, in a limited fashion. Shortly thereafter, multiple federal lawsuits were [filed](#) challenging the PPP restrictions. On June 24, SBA [further relaxed them](#), this time in a far more significant fashion, notably making the business owners who had sued eligible.

The change came less a week before the June 30 final deadline to apply for the original round of PPP. A day before the deadline, a federal judge [ruled](#) that the SBA's criminal history restrictions, except for the June 24 policy change, were likely unlawful. The court extended the deadline, but only for those who had sued. Shortly thereafter, Congress extended the PPP application deadline to August 8 for everyone, giving many newly [eligible business owners](#) an opportunity to apply for PPP assistance.

The [current policy](#) for PPP applicants, which reflects the June 24 policy change, excludes applicants with an owner of 20 percent or more of the equity who:

is presently incarcerated or, for any felony, is presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction; or

has been convicted of, pleaded guilty or nolo contendere to, or commenced any form of parole or probation (including probation before judgment) for, a felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance within the last five years or any other felony within the last year.

For most of 2020, SBA was nontransparent about its criminal history restrictions for COVID-19 EIDL disaster loans and advances. According to an [alleged SBA leak](#) in May (which we believe was reliable), and a spokesperson's [statement](#), SBA was using [extremely broad, seemingly arbitrary, and evolving](#) standards to reject people with criminal records. On September 8, SBA published an [FAQ](#) (which remains [current policy](#)) stating that:

Applicants [for COVID-19 EIDL] may be declined if they have been convicted of a felony in the past five years; or ever been engaged in the production or distribution of any product or service that has been determined to be obscene by a court...are currently suspended or debarred from contracting with the federal government or receiving federal grants or loans; and/or those who are presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction.

DRIVER'S LICENSES

This past year saw an unprecedented surge in the enactment of so-called “free to drive” laws. Nine states enacted 16 bills that end the suspension of driver’s licenses either due to unpaid fines and fees, or due to legal violations unrelated to dangerous driving. The [Free to Drive](#) campaign, a coalition of over 140 organizations, played an instrumental role in many of these reforms:

- **Hawaii** prohibited restrictions on obtaining or renewing a driver's license or registration, or transferring or receiving title, because of unpaid monetary obligations associated with traffic tickets incurred on or after November 1, 2020 ([HB 2750](#)). The bill also allows anyone prevented from obtaining or renewing a driver's license or registration due to failure to pay monetary obligations associated with traffic tickets to obtain a clearance from the court.
- **Illinois** enacted the "License to Work Act," eliminating suspension of driver’s licenses as a penalty for non-payment of various fines or fees, for being judged a “truant minor,” and for various non-driving violations; a license that was suspended for these reasons will be reinstated ([SB 1786](#)).
- **Maryland** repealed the authority to suspend driver's licenses for unpaid traffic fines and fees, with retroactive application ([HB 280](#)).
- **Maine** made permanent the non-suspension of driver licenses for missing a fine payment for a non-driving related offense ([LD 1953](#)).
- **Michigan** enacted seven bills that eliminate suspension of driver's licenses for various legal violations unrelated to dangerous driving (HB [5846-47](#), [5850-52](#), [6235](#), [HCR 29](#)).
- **New York** limited the grounds for suspension of a driver's license; provided for additional notification when a person is required to make an appearance; and required income-based payment plans to be available for traffic fines, fees and surcharges ([S5348B/A07463](#)).
- **Oregon** repealed suspension and restrictions of driving licenses for failure to pay fines ([HB 4210](#)).
- **Virginia** repealed the requirement to suspend the driver's license for non-payment of fines or costs; and requires reinstatement of any driver's license suspended prior to July 1, 2019, solely for nonpayment of fines or costs ([SB 1](#)). The state also repealed provisions allowing a driver's license to be suspended for: conviction or deferred disposition for a drug offense; non-payment of certain fees owed to correctional facility; or shoplifting motor fuel ([HB 909](#)).
- **West Virginia** eliminated authority to suspend a driver's license for failure to pay court fines, costs, forfeitures, or penalties, and instead provides for payment plans; people with outstanding debt may have their licenses reinstated upon entering a payment plan ([HB 4958](#)).

OTHER RELIEF MEASURES

Education

- **California** "banned the box" in higher education, prohibiting postsecondary institutions (except professional degree or law enforcement basic training programs), from inquiring into a prospective student's criminal history before making a final admissions decision ([SB 118](#)). Cal Educ. Code § 66024.5.

Sex Offense Registration

- **Washington** law allows juveniles to participate in a "special sex offender disposition alternative (SSODA)" if they have not committed a serious violent offense and have no prior sex offense history. Under [SB 6180](#), the SSODA disposition is made available to juveniles found to have committed assault in the fourth degree with a sexual motivation. In addition, the court is required to terminate registration upon completion of the SSODA period (usually two years) unless it finds the juvenile is not sufficiently rehabilitated.
- **Michigan** revised the state's public sexual offender registry law in response to a court ruling that banned enforcing new requirements on individual registrants if these were not in force when the individual was required to register. The bill ([HB 5679](#)) repeals provisions prohibiting a registrant from living, working or loitering in a "student safety zone," revises many of the items registrants must report, and limits information that must be posted on the public sex offender registry.

Reentry and rehabilitation

- **New Jersey** enacted [SB 761](#), which requires the corrections department to prepare comprehensive reentry plans in order to prepare each inmate for successful integration upon release.
- **Oregon** voters passed [Measure 110](#), which makes personal non-commercial possession of a controlled substance no more than a Class E violation (max \$100 fine) and establishes a drug addiction treatment and recovery program funded in part by the state's marijuana tax revenue and prison savings.

Immigration

- **Virginia** made inquiries into the immigration status of detained individuals—and notice to federal immigration officers—no longer required, except for adults detained for a felony; or juveniles found guilty or adjudicated delinquent and detained for a violent juvenile felony ([HB 1150](#) / [SB 491](#)).

Housing

While no state addressed housing barriers in 2020, some localities enacted [fair chance housing policies](#) that limit or preclude the consideration of criminal records in housing decisions.

¹ See CCRC annual reports on new legislation describing new restoration and record relief laws from 2013 through 2019, accessible at <http://ccresourcecenter.org/resources-2/resources-reports-and-studies/>; *Pathways to Reintegration: Criminal Record Reforms in 2019* (2020); *Reducing Barriers to Reintegration: Fair chance and expungement reforms in 2018* (2019); *Second Chance Reforms in 2017: Roundup of new expungement and restoration Laws* (2018); *Four Years of Second Chance Reforms, 2013 – 2016: Restoration of Rights & Relief from Collateral Consequences* (2017).

² See En Banc Amicus Brief of Collateral Consequences Resource Center in Support of Plaintiffs, No. 20-12003 (11th Cir. 2020), available at <https://ccresourcecenter.org/wp-content/uploads/2020/07/2020.08.03-Exhibit-A.pdf>.

³ *Who Must Pay to Regain the Vote? A 50-State Survey*, Collateral Consequences Res. Ctr. (2020), <https://ccresourcecenter.org/wp-content/uploads/2020/07/Who-Must-Pay-to-Regain-the-Vote-A-50-State-Survey.pdf>.

⁴ In this report we use the terms “automated” and “automatic” interchangeably to describe record relief provisions that do not require individual petitions or even an individual request. While many states have enacted relief that is mandatory upon a determination of eligibility, we do not consider this process “automatic” in the same way as a process designed to obviate access barriers entirely.

⁵ See, e.g., J.J. Prescott & Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, 133 HARV. L. REV. 2460 (2020); Colleen Chien, *America’s Paper Prisons: The Second Chance Gap*, 119 Mich. L. Rev. 519 (2020) (forthcoming).

⁶ See Model Law on Non-Conviction Records (Collateral Consequences Res. Ctr. 2019), <http://ccresourcecenter.org/model-law-on-non-conviction-records/>.

⁷ 18 U. S. C. § 3607, the so-called Federal First Offender Act.

⁸ See *Federal laws that give effect to state relief mechanisms*, Federal: Restoration of Rights & Record Relief, CCRC Restoration of Rights Project (Last updated Nov. 2, 2020), <https://ccresourcecenter.org/state-restoration-profiles/federalrestoration-of-rights-pardon-expungement-sealing/#E> *Federal laws that give effect to state relief mechanisms*.

⁹ There is no single accepted definition of the various terms used to describe record relief. While the term “expungement” is commonly understood to mean destruction or deletion of the record, such that many assume that “sealing” is a functionally distinct less thorough form of relief, the two terms are used interchangeably in many states’ laws. More recently, the

term “record-clearance” has been used to describe the effect of record relief, but that term also does not come with a neat functional definition.

The need to find common ground on terminology is tremendously important if we are to establish a firm foundation for record reform. The Model Law on Non-Conviction Records, developed by a group of practitioners and scholars under CCRC’s leadership, adopts a definition of the term “expungement” that balances strict limits on access to promote reintegration with the legitimate needs of law enforcement, researchers, and individual subjects of records. Under § 1(c)(3) of the Model Law, the term “expunge” is defined to mean “sequestration,” which makes the record unavailable unless disclosure is authorized by law or court order, but does not destroy it:

In rejecting destruction, the model law recognizes society’s significant interests in preserving the records of arrests and criminal proceedings—including those records to which access is restricted—for a variety of purposes, including scholarly research, government accountability, oversight, and compliance. In addition, the subject of a record often has an interest in maintaining access to their own record. For example, non-citizens in removal proceedings may be irreparably harmed if they cannot obtain a certified copy of their record in order to demonstrate that an arrest or charge did not result in conviction. Accordingly, the model law does not provide that a record should be completely deleted from a records system or otherwise destroyed. (Even in state relief schemes that define expungement relief to include destruction, commonly at least one copy of the record is still preserved.)

Model Law on Non-Conviction Records (Collateral Consequences Res. Ctr. 2019), <http://ccresourcecenter.org/model-law-on-non-conviction-records/> (footnote omitted).

¹⁰ In states where the right to vote is lost and regained by operation of law, federal and out-of-state convictions are generally subject to the same rules as in-state convictions. Connecticut is a notable exception. *See* Conn. Gen. Stat. Ann. § 9-46a. The handful of states that only provide for discretionary reenfranchisement typically allow those with federal convictions to regain the vote on the same terms as those with in-state convictions.

¹¹ *The Many Roads to Reintegration: A 50-State Report on Laws Restoring Rights and Opportunities after Arrest or Conviction*, Collateral Consequences Res. Ctr. (2020), <https://ccresourcecenter.org/the-many-roads-to-reintegration/>; *Who Must Pay*, *supra* n.3.

¹² *See* note 9, *supra*, for a discussion of the vexing problem of unclear and inconsistent terminology in record relief, which frustrates development of a coherent national policy.

¹³ *See* note 10, *supra*.

¹⁴ *See* Amanda Robert, *States help trafficking survivors overcome criminal records*, ABA Journal (Feb. 1, 2020), <https://www.abajournal.com/magazine/article/states-help-trafficking-survivors-overcome-criminal-records>.

¹⁵ *See* Sara Weissman, *The Stimulus Package: A Win For Incarcerated Students*, *Diverse Issues in Higher Education* (Dec. 31, 2020), <https://diverseeducation.com/article/199955/>.

¹⁶ See Cynthia A. Golembeski, Ans Irfan, & Kimberly R. Dong, *Food Insecurity and Collateral Consequences of Punishment Amidst the COVID-19 Pandemic*, *World Medical & Health Policy* 12, no. 4: 357-373 (2020), <https://doi.org/10.1002/wmh3.378>.

¹⁷ See *id.* (citing The Network for Public Health Law, 2020).

¹⁸ As of August 2016, 10 states retained the full TANF ban (this included South Dakota and Virginia, which repealed it this year) and 26 states retained a partial TANF ban. Maggie McCarty, Gene Falk, Randy Alison Aussenberg, & David H. Carpenter, *Drug Testing and Crime-Related Restrictions in TANF, SNAP, and Housing Assistance*, Congressional Research Service, Table 9 (Nov. 28, 2016), <https://fas.org/sgp/crs/misc/R42394.pdf>.

¹⁹ U.S. COMMISSION ON CIVIL RIGHTS, *COLLATERAL CONSEQUENCES: THE CROSSROADS OF PUNISHMENT, REDEMPTION AND THE EFFECTS ON COMMUNITIES* (June 2019).

APPENDIX: NEW LAWS BY STATE

= Legislation

BM = Ballot Measure

EO = Executive Order

Jump to:

Alabama (0)	Louisiana (8)	Oklahoma (0)
Alaska (0)	Maine (1)	Oregon (1; 1 BM)
Arizona (1 BM)	Maryland (3)	Pennsylvania (2)
Arkansas (0)	Massachusetts (0)	Rhode Island (1)
California (6; 1 BM; 1 EO)	Michigan (26)	South Carolina (0)
Colorado (4; 1 EO)	Minnesota (0)	South Dakota (2)
Connecticut (0)	Mississippi (0)	Tennessee (0)
Delaware (0)	Missouri (1)	Texas (0)
District of Columbia (1)	Montana (1 BM)	United States (2)
Florida (0)	Nebraska (1)	Utah (7)
Georgia (2)	Nevada (1; 1 BM)	Vermont (2)
Hawaii (4)	New Hampshire (1)	Virginia (10)
Idaho (3)	New Jersey (1)	Washington (3)
Illinois (2)	New Mexico (0)	West Virginia (4)
Indiana (1)	New York (1)	Wisconsin (0)
Iowa (2; 1 EO)	North Carolina (1; 1 EO)	Wyoming (1)
Kansas (0)	North Dakota (0)	
Kentucky (1)	Ohio (0)	

State	Issue	Bill	Summary
AZ	Record Relief	Prop. 207	[Ballot Measure] Requires courts, upon petition, to expunge arrests, charges, and convictions for certain marijuana possession, consumption, transportation, and cultivation offenses (eff. July 2, 2021). Ariz. Rev. Stat. § 36-2862.
CA	Record Relief	AB 2425	Strengthens requirements for the automatic sealing of juvenile records not resulting in an adjudication of guilt. Cal. Welf. & Inst. Code §§ 786.5, 827.95.
CA	Diversion	AB 3234	Authorizes a superior court judge to place a defendant on misdemeanor diversion, over the objection of the prosecutor, with certain offenses excluded from eligibility. Cal. Penal Code §§ 1001.95 - 1001.97.
CA	Diversion	AB 79	Expands developmental disability diversion. Cal. Penal Code § 1001.21 - 1001.29
CA	Executive Clemency	EO N-24-20	[Executive Order] Launches a clemency effort to address the unjust criminalization of lesbian, gay, bisexual, transgender, and queer (LGBTQ+) people.
CA	Education	SB 118	"Bans the box" in higher education, by prohibiting postsecondary institutions (except professional degree or law enforcement basic training programs), from inquiring into a prospective student's criminal history before making a final admissions decision. Cal Educ. Code § 66024.5. Also delays implementation of California's "clean slate" record relief law from early 2021 to mid 2022. Cal. Penal Code §§ 851.93, 1203.425.
CA	Record Relief	AB 2147	Creates a special avenue to set-aside and dismissal for people who have served as an incarcerated firefighter and are released from custody. Cal. Penal Code § 1203.4b.
CA	Voting Rights	Prop. 17	[Ballot Measure] Amends the state constitution such that people who have lost their voting rights (due to a felony conviction resulting in a state prison term), will have their voting rights restored once released from prison, even if on parole. Cal. Const. Art. II s. 2, 4.
CA	Voting Rights	AB 646 / ACA 6	Authorizes Prop. 17 (above) and adopts conforming legislation.
CO	Diversion	HB 20-1393	Expands a mental health diversion pilot to include more districts and participants. Colo. Rev. Stat. § 18-1.3-101.5.
CO	Diversion	HB 20-1017	Provides that if a person petitioning to seal records has completed a substance use treatment program as part of the case sought to be sealed, the court shall consider the treatment favorably in determining whether to seal. Colo. Rev. Stat. § 24-72-703(10.5). Also authorizes the creation of behavioral health diversion programs. § 27-60-106.

CO	Executive Clemency; Occupational Licensing	HB 20-1424	Authorizes the governor to pardon a class of defendants who were convicted of possession of up to two ounces of marijuana, without the requirement of a pardon application. Colo. Rev. Stat. § 16-17-102(2). Creates "social equity licenses" to operate legal marijuana businesses, available to people who: (1) themselves or their family members were arrested, convicted, or subject to a civil forfeiture for a marijuana offense; (2) have a low income; or (3) live in an "opportunity zone" or "disproportionate impacted area." § 44-10-308.
CO	Executive Clemency	EO C 2020 004	[Executive Order] Pursuant to HB 20-1424 (see above), pardoning all individuals who have been convicted of possession of one ounce or less of marijuana in Colorado.
CO	Occupational Licensing	HB 20-1326	The "Occupational Credential Portability Program," authorizes approval of an application for reciprocal licensure by anyone licensed in another jurisdiction, apparently without regard to whether they meet Colorado's standards for licensure that relate to consideration of criminal record, unless they have committed an act that would be grounds for disciplinary action in Colorado. Colo. Rev. Stat. §§ 12-20-202(3)(a), (b), (f)(III).
DC	Voting Rights	B23-0324, -0825, -0826, -0907	Repeals felony disenfranchisement and restores the vote to those currently incarcerated for a felony, including counseling of prisoners and provisioning of ballots. D.C. Code § 1-1001.01 <i>et seq.</i>
FED	Diversion	H.R.886	Directs the Justice Department of Justice to establish a Veterans Treatment Court Program to provide grants and technical assistance to state, local, and tribal governments. P.L. 116-153, Veteran Treatment Court Coordination Act of 2019.
FED	Public Benefits	H.R.133	Ends a 26-year ban on Pell Grants (higher education grants) for incarcerated individuals. Also removes a question from the federal student financial aid application (FAFSA) that since 1998 had barred those with drug convictions from applying for financial aid.
GA	Record Relief	SB 288	Makes eligible for record restriction and sealing: pardoned convictions (except for serious violent felonies or sexual offenses), up to two misdemeanor convictions (excluding specified violent and sexual offenses), and various conditional discharges. Ga. Code Ann. § 35-3-37.
GA	Record Relief	SB 435	Authorizes petitions for vacatur, restriction, and sealing of convictions that occurred while a defendant was a victim of human trafficking. Ga. Code Ann. §§ 17-10-21; 35-3-37(j)(6).
HI	Diversion	SB 2638	Permits persons charged with misdemeanor domestic abuse to enter a deferred acceptance of guilty plea. Haw. Rev. Stat. § 709-906.
HI	Diversion	HB 1620	Allows the court, at any stage of a criminal proceeding, if there is reason to believe that physical or mental health is an issue, to enter into an agreement with the parties to divert the case into evaluation, treatment, or specialized courts. Haw. Rev. Stat. § 704-407.5

HI	Driver's Licenses	HB 2750	Prohibits restrictions on obtaining or renewing a driver's license or registration, or transferring or receiving title, because of unpaid monetary obligations associated with traffic tickets, from on or after November 1, 2020. Allows anyone prevented from obtaining or renewing a driver's license or registration solely due to failure to pay monetary obligations associated with traffic tickets to petition the court for a clearance, which the court must grant.
HI	Employment	SB 2193	For consideration of conviction records in employment, this law reduces the look-back provision to seven years for felonies and five for misdemeanors, excluding periods of incarceration. Hawaii includes discrimination based on conviction record in its general fair employment practices law, and under preexisting law it is an unlawful employment practice to inquire into arrest and conviction records before the employee receives a conditional offer of employment, and an employer could withdraw an offer only if a conviction within the previous 10 years (exclusive of any period of incarceration) "bears a rational relationship to the duties and responsibilities of the position." This law reduces the 10-year period to 7 years for felonies and 5 for misdemeanors.

IA	Occupational Licensing	HF 2627	Prior to 2020, Iowa had no general law regulating consideration of criminal record in occupational licensing. HF 2627 adds a new section to Chapter 272C of the Iowa Code to impose an unusually robust and license-specific “direct relationship” test on all but a few health-related licenses. Effective January 1, 2021, each covered board must provide a list of offenses that “directly relate[] to the duties and responsibilities of the profession,” and may not deny a license based on non-conviction records or any finding that an applicant “lacks good character” or “suffers from moral turpitude.” Iowa Code Ann. §272C.15. Under the new section, an agency “shall grant” an exception to an individual “who would otherwise be denied a license due to a criminal conviction” if the individual is determined to be rehabilitated and an “appropriate candidate for licensure” based on a list of factors that include the nature and seriousness of the crime, the passage of time, and other mitigating or aggravating factors. There is a rebuttable presumption that an applicant is “rehabilitated” five years after release from incarceration, unless the conviction was for certain violent or sexual crimes. The board shall consider whether a “certification of employability” has been issued and any letters of reference. A prospective applicant may petition for a preliminary determination, for which a board may charge a fee of \$25. Grounds for denial must be in writing, and the applicant must be given an opportunity to appeal, and informed that evidence of rehabilitation will be considered on reapplication. The board’s findings on each criterion specified must be “sufficient for review by a court.” The board has the burden of proving direct relationship. An individual may be requested to submit a “complete criminal record,” which includes the complaint and judgment for each conviction.
IA	Voting Rights	SF 2348	Would restore the right to vote upon a person's discharge from a felony conviction, contingent on the ratification of a constitutional amendment before January 1, 2023. As of this date, the constitutional amendment process has not proceeded.
IA	Voting Rights	EO 7	[Executive Order] Restores the right to vote and hold office to any person who has “discharged his or her sentence upon completion of any term of confinement, parole, probation, or other supervised release for all felony convictions.” A person is restored even though they have not paid restitution and other court debt, but the order does not discharge it. The order specifically restores the vote to those convicted of federal and out-of-state offenses. The governor will continue to restore these rights “on a daily basis beginning on August 6.” Those disqualified by virtue of a homicide conviction are excepted and may regain the right to vote only by applying to the governor.

ID	Executive Clemency	HB 427	Expands the authority of the Commission of Pardons and Parole to grant commutations and pardons, to provide for approval or disapproval by the Governor in certain instances, to provide for certain crimes where the commission shall have full and final authority, and to provide that the commission shall conduct proceedings pursuant to certain rules and regulations.
ID	Occupational Licensing	SB 424	Deletes the "good moral character" requirement for barber and cosmetology licenses.
ID	Occupational Licensing	SB 1351	Prior to 2020, Idaho had no general law regulating consideration of criminal record in occupational licensing. SB1351 adds a new chapter 94 to Title 67 of the Idaho Code, inter alia establishing a committee "to study and review occupational licensing and certification laws in general in order to determine, as applicable, how the legislature may be able to ease occupational licensing barriers while still protecting the public health and safety." The new law authorizes a non-binding preliminary determination as to whether a person's conviction would be disqualifying, and establishes a multi-factor test to determine whether a person's criminal record is "currently relevant to the applicant's fitness" to engage in the occupation. A license may not be denied on the basis of "vague or generic terminology related to a criminal conviction, including but not limited to 'moral turpitude' or 'moral character.'" "Where such terms appear in code or rule with respect to a criminal conviction, a licensing authority shall conduct a relevancy evaluation pursuant to subsection (1) of this section." The "relevancy" standard was inserted in a variety of licensing chapters as a basis for denial or revocation of a license, replacing a formulation that permitted adverse action based on "conviction of any felony, or conviction of any other crime involving moral turpitude." It was also inserted into the rules of the division of human resources and the personnel commission that regulate public employment in the state.
IL	Driver's Licenses	SB 1786	The "License to Work Act" eliminates the suspension of driver's licenses as a penalty for non-payment of various fines or fees, for being judged a "truant minor," and for various non-driving violations; a person whose license was previously suspended for these reasons will have it reinstated. 625 ILCS 5/6-209.1, <i>et seq.</i>
IL	Record Relief	SB 1857	Extends the waiver of filing fees in large counties for the sealing or expungement of non-conviction records.
IN	Record Relief	SB 47	Makes clear that the waiting period for expungement for a felony reduced to a misdemeanor is five years running from the date of conviction. Ind. Code §§ 35-38-9-2.

KY	Record Relief	HB 327	Streamlines the expungement of non-conviction records. For cases disposed after March 27, 2020, expungement of misdemeanor or felony charges resulting in acquittal or dismissal with prejudice (“not in exchange for a guilty plea to another offense”) is automatic upon disposition. Ky. Rev. Stat. Ann. § 431.076. Cases disposed prior to that date, and felony cases in which charges have not resulted in an indictment, may be expunged on petition after 60 days. Cases in which charges were dismissed without prejudice are eligible for expungement three years after disposition for felony charges, and one year after disposition in the case of misdemeanor charge (reduced in both cases from five years). Expungement is mandatory for eligible cases (for unindicted felony cases, the prosecutor may obtain an extension of up to 180 days to file an indictment). Under preexisting law, a hearing was required and expungement was discretionary.
LA	Diversion	HB 178	Expands eligibility for felony probation and deferral or suspension of a sentence, by allowing participation up to two times (instead of once) and allowing participation by persons charged with certain drug offenses carrying up to ten years (instead of five years) in prison. La. C. Cr. Proc. Art. 893.
LA	Occupational Licensing	SB 354	Provides for issuing a card to individuals leaving prison that includes a list of all vocational licensing and certification programs completed while incarcerated.
LA	Record Relief	HB 129	Makes clear that a person can file a motion to expunge records upon successful completion of a pretrial diversion program. La. C. Cr. Proc. Art. 976.
LA	Record Relief	HB 179	Repeals requirement that to expunge certain violent offenses, the person "has been employed for a period of ten consecutive years." La. C. Cr. Proc. Art. 978.
LA	Record Relief	HB 241	Allows expungement to be sought when a person is on parole. Art. 975. Also expands expungement by repealing requirements that no felony conviction was expunged in the last 15 years and no misdemeanor was expunged in the last 5 years; and repealing a requirement, where expungement is sought for DUI, that the person have had no arrest or conviction expunged in the past 10 years. La. C. Cr. Proc. Arts. 977, 978.
LA	Record Relief	HR 67	Establishes a Clean Slate Task Force to study the possibility of automating expungement.
LA	Record Relief	HB 2	Authorizes access to criminal justice data for nonprofit partners providing technical assistance to the Clean Slate Task Force described above.
LA	Record Relief	HB 194	Modifies the expungement forms to allow applicants to indicate if they received a "first offender pardon."
MD	Driver's Licenses	HB 280	Repeals the authority to suspend driver's licenses for unpaid traffic fines and fees, with retroactive application.

MD	Employment	HB 994	Provides that private employers with more than 15 employees may not inquire an applicant's criminal record until the first interview, and authorizing civil penalties. Certain employment excepted. The law specifically does not preclude local jurisdictions from imposed stricter standards. Md. Code Lab. & Empl. § 3-1403. Governor Hogan's veto was overridden.
MD	Record Relief	HB 242 / SB 206	Expands the vacatur authority for victims of human trafficking by authorizing relief for more offenses (previously only prostitution), simplifies procedures, and makes convictions that have been vacated eligible for expungement as a non-conviction record. Md. Code Ann., Crim. Proc. §§ 8-302, 10-105(a)(13).
ME	Driver's Licenses	LD 1953	Makes permanent the non-suspension of driver licenses for missing a fine payment for a non-driving related offense.
MI	Record Relief	HB 4980	Authorizes automatic expungement (set-aside and sealing) of certain convictions: an unlimited number of minor misdemeanors would be expunged automatically seven years after imposition of sentence; and, up to four more serious misdemeanors and up to two felonies eligible for relief under expanded petition-based standards (see below) would be automatically expunged 7 or 10 years after imposition of sentence or release from imprisonment, respectively, provided that the conditions in the petition-based standards are met (no pending charges in the state database, no additional convictions in the waiting period). Mich. Comp. Laws § 780.622, <i>et seq.</i> In the case of more serious misdemeanors and felonies, a person with more than one conviction for an assaultive crime (broadly defined) is ineligible for relief. Also, a broad range of crimes involving violence or dishonesty, or subject to a lengthy sentence, are ineligible for automatic relief. While restitution and other court debt need not be paid for a conviction to be expunged, a court may reinstate a conviction if a person "has not made a good-faith effort to pay" restitution. The law requires the automatic relief system to be made operational two years after the effective date of the law, "subject to any necessary appropriation," as well as a potential one-time 180-day extension at the governor's request if she determines that the automatic relief cannot be implemented by the deadline "because of technological limitations."
MI	Record Relief	HB 4984	Expands petition-based eligibility for set-aside and sealing to an unlimited number of misdemeanors and up to three felonies, provided that no more than two convictions for assaultive crimes may be set-aside in a person's lifetime, and not more than one conviction for the same offense may be set-aside if the offense is punishable by more than 10 years in prison. Mich. Comp. Laws § 780.621, <i>et seq.</i>

MI	Record Relief	HB 4981	Specifies that set-aside and sealing is not available for felonies punishable by a life sentence; specified sex offenses; traffic offenses if they involved alcohol, injury or commercial licensees; and a felony domestic violence conviction if the person has a misdemeanor domestic violence conviction. <i>Id.</i>
MI	Record Relief	HB 4983	Sets new waiting periods for seeking set-aside: more than one felony requires 7 years; one felony, or 2+ serious or assaultive misdemeanors requires 5 years; other misdemeanors require 3 years. These periods run from the latest of the following: imposition of sentence, completion of incarceration, and completion of supervision. <i>Id.</i>
MI	Record Relief	HB 4985	Provides that in counting convictions for determining eligibility for set-aside and sealing, crimes in the same 24-hour period arising from the same transaction are counted as a single offense unless they involve violence, guns, or a maximum sentence of 10+ years in prison. <i>Id.</i>
MI	Record Relief	HB 4982	Streamlines petitions for marijuana misdemeanors with a presumption in favor of set-aside and sealing for offenses that have been decriminalized. <i>Id.</i>
MI	Record Relief	HB 5120	Provides for a rehearing or appeal where set-aside of a marijuana misdemeanor is denied; and provides that where a marijuana misdemeanor has been set aside, a person may not seek resentencing in another case where the marijuana conviction was used to determine the sentence. <i>Id.</i>
MI	Record Relief	SB 681	Makes set-aside and sealing automatic for eligible juvenile adjudications, effective mid-2023. Mich. Comp. Laws § 712A.18e, <i>et seq.</i>
MI	Record Relief	SB 682	Makes records of juvenile proceedings confidential to all but “persons having a legitimate interest,” defined to include the juvenile, their parents or guardians, law enforcement, and certain agencies with responsibility for juvenile custody. Mich. Comp. Laws § 712A.28.
MI	Diversion	SB 1049	Extends eligibility for youthful trainee deferred judgment to 24- and 25-year-olds. Mich. Comp. Laws § 762.11.

MI	Occupational Licensing	HB 4488	HB 4488 and succeeding bills modified how the phrase "good moral character" is to be interpreted and implemented in connection with specific types of licenses. Mich. Comp. Laws § 338.441, <i>et seq.</i> A licensing agency may not consider conviction as evidence in determining "good moral character" unless the conviction is of a felony and the agency concludes that "the specific offense for which the individual was convicted has a direct and specific relationship to the activities authorized by the occupational or professional license;" that the offense "involves a demonstrable risk to the public safety;" the convicted individual, based on the nature of the offense, "is more likely to commit a subsequent offense because he or she has the occupational or professional license than if he or she does not have the occupational or professional license;" and "A subsequent offense committed with the aid of the occupational or professional license will cause greater harm to the public than it would if the individual did not have the occupational or professional license." This standard does not apply to licensure in connection with facilities for childcare or eldercare, nursing homes, adult foster care facilities, and attorney licenses. In connection with determining an individual's "good moral character", a licensing board must also consider an individual's certificate of employability, if any, and any additional information about his or her current circumstances, such as how long ago the offense occurred, whether he or she completed the sentence for the offense, other evidence of rehabilitation, testimonials, employment history, and employment aspirations as evidence in the determination of an individual's good moral character under subsection (2) or (3)."
MI	Occupational Licensing	HB 4489	See above.
MI	Occupational Licensing	HB 4490	See above.
MI	Occupational Licensing	HB 4491	See above.
MI	Occupational Licensing	HB 4492	See above.
MI	Occupational Licensing	SB 293	Requires the Department of Licensing and Regulatory Affairs to submit an annual report to the legislature by December 1 of each year with the "number of applications denied by the department because of an applicant's lack of good moral character and a summary, by category of offense, of the criminal convictions on which those denials were based." Mich. Comp. Laws § 339.441(9)(d).
MI	Driver's Licenses	HB 5846	This package of bills, HB 5846-47, 5850-52, 6235 and HCR 29, eliminates the suspension of driver's licenses for a range of legal violations unrelated to dangerous driving.

MI	Driver's Licenses	HB 5847	See above.
MI	Driver's Licenses	HB 5850	See above.
MI	Driver's Licenses	HB 5851	See above.
MI	Driver's Licenses	HB 5852	See above.
MI	Driver's Licenses	HB 6235	See above.
MI	Driver's Licenses	HCR 29	See above.
MI	Sex Offense Registration	HB 5679	Revises the state's public sexual offender registry law in response to a court ruling that banned enforcing new requirements on individual registrants if these were not in force when the individual was required to register. The bill repeals provisions prohibiting a registrant from living, working or loitering in a "student safety zone," revises many of the items registrants must report, and limits information that must be posted on the public sex offender registry.
MI	Public Benefits	SB 1006	Fully opts Michigan out of the federal ban on people with a drug felony conviction (for conduct after Aug. 22, 1996) receiving Supplemental Nutrition Assistance Program (SNAP).
MI	Public Benefits	HB 5396	Opts Michigan out of the federal ban on people with a drug felony conviction (for conduct after Aug. 22, 1996) receiving Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance to Needy Families (TANF) benefits, so long as "the individual is not in violation of his or her probation or parole requirements."

MO	Occupational Licensing	HB 2046	Prior to 2020, Missouri provided very little protection to a person with a criminal record in the licensing. The Fresh Start Act regulates licensure for the first time. It establishes a “direct relationship” standard and specifies that certain violent crimes “shall” be considered “directly related” to whatever license is involved even if sentence is not imposed. Drug crimes “may” be disqualifying for certain occupations, while fraud offenses may be disqualifying for other occupations. If convicted of a lesser included offense, the period of disqualification as “directly related” lasts only for four years after release from incarceration. “Direct relationship” is determined by a multi-factor test. Applicants may apply for a preliminary determination that is binding on the agency. If a person is denied a license, they have a right to a hearing and written findings addressing each factor on which the agency relied, sufficient for a reviewing court. “In any administrative hearing or civil litigation authorized under this subsection, the licensing authority shall carry the burden of proof on the question of whether the applicant’s criminal conviction directly relates to the occupation for which the license is sought.” The new law does not apply to significant classes of licenses, including teachers, various health professionals, accountants, real estate brokers and agents, and peace officers.
MT	Record Relief	I-190	[Ballot Measure] Marijuana legalization measure provides that a person serving a sentence—or who has completed a sentence—for an act now legalized or now punishable by a lesser sentence may petition for an expungement, resentencing, and/or redesignation. I-190 sec. 36 (2020).
NC	Employment	EO 158	[Executive Order] Directs all state agencies to remove questions about criminal record from employment application forms, and to defer inquiries until “the completion of the initial job interview.” The order further prohibits agencies from considering the following: (i) expunged or pardoned convictions, (ii) charges or convictions that do not relate to the underlying employment matter, (iii) arrests not resulting in a conviction, or (iv) charges resulting in dismissal or not guilty. State employment decisions “shall not be based on the criminal history of an individual unless that criminal history is demonstrably job-related and consistent with business necessity associated with the position, or if state or federal law prohibits hiring an individual convicted of certain crimes for a particular position.”

NC	Record Relief	SB 562	The Second Chance Act expands expunction opportunities and streamlines the process in a variety of ways, including providing mandatory expungement for 16- and 17-year olds convicted as adults before "Raise the Age" legislation, who meet certain criteria; automatic expungement of many non-conviction records and a streamlined petition process for others; and broadened eligibility criteria for expungement of conviction records (i.e. allowing multiple non-violent misdemeanors to be expunged; treating multiple convictions in the same court session as one conviction, etc.). A more detailed summary is here .
NE	Record Relief	LB 881	Existing law permits a person sentenced to probation to petition the sentencing court to "set aside" the conviction upon completion of sentence. LB 881, for the first time, allows a person who has completed a term of imprisonment of one year or less, to also petition to "set aside" their conviction, so long as: no charge is currently pending against them; they are not required to register under the Sex Offender Registration Act; the offense was not vehicular homicide; and they were not denied a set-aside within the previous two years. Neb. Rev. Stat. § 29-2264.
NH	Employment	HB 253	This ban-the-box law in public employment prohibits an application-stage inquiry into criminal record prior to the initial interview, "unless the public employer is required to screen applications for specific criminal convictions because it is prohibited from hiring those with such convictions under state or federal law." N.H. Rev. Stat. Ann. § 275:37-c(II).
NJ	Prison Reentry	SB 761	Requires corrections department to prepare comprehensive reentry plans in order to prepare each inmate for successful integration upon release.
NV	Executive Clemency	Question 3	[Ballot Measure] Requires the State Board of Pardons Commissioners (SBPC), which is responsible for granting pardons, to meet four times per year, allows any board member to submit an issue for the board's consideration, and provides that a majority of board members is sufficient to issue a pardon.
NV	Voting Rights	AB 1 (32nd spec. session)	Technical fix to make clear that a person who has lost the right to vote due to a felony conviction is only disenfranchised while actually incarcerated. Nev. Rev. Stat. §§ 213.157(1)(b); 293.540.
NY	Driver's Licenses	S5348B/A07463	Limits grounds for suspension of a driver's license; provides for additional notification when a person is required to make an appearance; and requires income-based payment plans to be available for traffic fines, fees and surcharges.
OR	Driver's Licenses	HB 4210	Repeals driving license suspension and restrictions for failure to pay fines.

OR	Other	Measure 110	[Ballot Measure] Makes personal non-commercial possession of a controlled substance no more than a Class E violation (max \$100 fine) and establishes a drug addiction treatment and recovery program funded in part by the state's marijuana tax revenue and prison savings.
PA	Occupational Licensing	SB 637	Prior to 2020, Pennsylvania had a weak occupational licensing law dating from the 1970s. SB637 supersedes any law that disqualifies an individual for a license or provides for “good moral character” findings, requires that there be a “direct relationship” between the crime and the profession and whether licensing the individual poses a public safety risk, as determined by an “individualized assessment” under a long list of specified factors. Excludes those convicted of sexual offenses from health care licensure and establishes a separate set of standards for those convicted of violent crimes. Prohibits consideration of juvenile adjudications, non-conviction records, and records of convictions that have been expunged or sealed). Authorizes restricted licenses for applicants who cannot immediately demonstrate fitness due to a criminal conviction and provides for a “preliminary determination” for applicants considering undergoing training for a license, which is binding unless the crime is one on the list of crimes “directly related,” in which case it may be subject to further inquiry when a formal application is filed. The law falls short in not ruling out consideration of dated or minor convictions, although it does rely on a public safety standard for denial of a license and gives those recently released from prison a chance to demonstrate their abilities. While existing law requires boards to defend record-related denials with written reasons, neither old nor new law provides an opportunity for an administrative appeal, requiring a disappointed applicant to file a lawsuit.
PA	Record Relief	HB 440	Eliminates unpaid fines and fees (excluding restitution and a filing fee) as barriers to sealing; provides for automatic sealing of pardoned convictions; provides for automatic expungement of acquittals. 18 Pa. Cons. Stat. § 9122.1, <i>et seq.</i>

RI	Occupational Licensing	S 2824 / H 7947A	In August 2020, Rhode Island enacted its first generally applicable law regulating the occupational licensing process and extended it as well to professional and business licenses issues by state agencies. As amended by S2824 the law applies a “substantial relationship” standard to licensing boards under most departments of state government, establishes standards for determining substantial relationship, excludes certain records from consideration, allows applicants to establish rehabilitation by detailed standards, provides detailed procedures in the event of denial, suspension or revocation, and includes accountability standards. Records that may not be considered include non-conviction records, juvenile records, expunged records, records of misdemeanors that may not be punished by incarceration, and any crime that is not substantially related. If a licensing authority intends to deny, suspend, or revoke an occupational license solely or in part because of a conviction, the person must be given reasons in writing, and if the conviction is “substantially related” an analysis under each of the criteria. The person must be permitted to respond and given an opportunity to appeal. Every agency must post on its website each year a report with “(1) the number of applicants granted licenses, the number of applicants denied licenses for any reason, and, to the extent available, the demographic breakdown of the applicants, including race, ethnicity, and gender, and city or town of residence; and (2) The number of applicants denied solely, or in part, because of a criminal conviction. The law took effect on January 1, 2021.
SD	Public Benefits	SB 96	Fully opts South Dakota out of the federal ban on people with a drug felony conviction (for conduct after Aug. 22, 1996) receiving Temporary Assistance to Needy Families (TANF) benefits.
SD	Record Relief	HB 1047	Eliminates the requirement that a victim of human trafficking be over 18 years old to expunge a juvenile record, and allows the victim to petition the court directly or through a parent, guardian, or guardian ad litem. S.D. Codified Laws § 26-7A-115.1.
UT	Diversion	SB 188	Revises the term lengths for plea in abeyance agreements, to align with guidelines developed by the Sentencing Commission. Utah Code Ann. § 77-2a-2.
UT	Diversion	HB 100	Authorizes the establishment of veterans treatment courts.

UT	Occupational Licensing	SB 201	In 2019, Utah enacted a law providing for a preliminary determination of qualification for licensure that applies to many state licensing boards, and enhanced its standard for decision-making from "reasonable relationship" to "substantial relationship." SB 201 takes regulation of licensing a step further, establishing heightened standards for consideration of licensure of applicants with criminal records. Licensing boards must "provide individualized consideration to the applicant or licensee," and "determine whether the criminal conviction bears a substantial relationship to the applicant's or licensee's ability to safely or competently practice the occupation or profession." In this determination the board will "consider the applicant's or licensee's current circumstances" measured by a number of the customary factors such as age when offense committed, time since conviction, etc. and various indicia of rehabilitation. Applicants are provided an opportunity to appeal a denial. Utah Code Ann. § 58-1-402. Certain convictions are per se "not evidence of unprofessional conduct," including non-convictions, and convictions where seven years have passed since release from incarceration without a conviction or guilty plea. Convictions for violent and sexual crimes, and for fraud or embezzlement are excepted. § 58-1-501(4).
UT	Employment	HB 436	Removes an absolute barrier based on certain convictions for employment with vulnerable populations, if the applicant will be serving only adults whose only impairment is a mental health diagnosis. In addition, certain convictions cannot be disqualifying after 10 conviction-free years for felonies, and three years for misdemeanors.
UT	Record Relief	HB 441	Expands the authority of prosecutors to request that the court enter a judgment to a lower degree of the offense and impose a lower sentence. § 77-2-1.2
UT	Record Relief	SB 121	Makes eligibility periods and the requirement of a certificate of eligibility inapplicable to convictions for possession of marijuana for medicinal purposes. Utah Code Ann. § 77-40-103(5).

UT	Record Relief	HB 397	Prohibits the Bureau of Criminal Identification from considering minor prior or pending cases, or any clean-slate-eligible cases, in determining whether to issue a certificate of eligibility for expungement. Enacts the Juvenile Expungement Act, which reorganizes earlier law, with a few major changes. § 77-40-105(4). As under existing law, upon reaching age 18, a person with a juvenile record is eligible for expungement following a one-year waiting period and completion of all sentence requirements (which may be waived by the court). After a hearing, the court may seal all the record if the individual has not, in the five years preceding, been convicted of a violent felony or have any proceedings pending. § 78A-6-1505. Previously, expungement was unavailable to any person convicted of a felony or misdemeanor involving moral turpitude since the juvenile court's jurisdiction terminated. The bill also simplifies the process to expunge a record with only nonjudicial adjustments, without a hearing. § 78A-6-1504.
VA	Public Benefits	HB 566 / SB 124	Fully opts Virginia out of the federal ban on people with a drug felony conviction (for conduct after Aug. 22, 1996) receiving Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance to Needy Families (TANF) benefits.
VA	Immigration	HB 1150 / SB 491	Revises Virginia law such that inquiries into the immigration status of detained individuals--and notice to federal immigration officers--are no longer required, except for adults detained for a felony; or juveniles found guilty or adjudicated delinquent and detained for a violent juvenile felony.
VA	Diversion	SB 818	The Behavioral Health Docket Act authorizes the creation of specialized behavior health dockets to address individuals in the criminal justice system with mental health conditions and drug addictions.
VA	Diversion	SB 133	Allows a court to defer judgment in a criminal case (certain offenses are ineligible), place the defendant on probation, and dismiss the case, if the defendant has been diagnosed with autism or an intellectual disability and the court finds by clear and convincing evidence that "the criminal conduct was caused by or had a direct and substantial relationship to the person's disorder or disability." Va. Code Ann. § 19.2-303.6.
VA	Diversion	SB 5033 / HB 5062	Authorizes a court to defer proceedings in a criminal case, upon the agreement of the Commonwealth and defendant, and considering the facts of the case (notwithstanding entry of a conviction order), and continue the case on reasonable terms and conditions agreed upon by the parties or imposed by the court. Final disposition may include dismissal, conviction of the original charge, or conviction of an alternative charge. § 19.2-298.02
VA	Driver's Licenses	SB 1	Repeals the requirement to suspend the driver's license of a person convicted of any violation of law who does not make payment of fines or costs; and requires reinstatement of any driver's license suspended prior to July 1, 2019, solely for nonpayment of fines or costs.

VA	Driver's Licenses	HB 909	Repeals provisions allowing a driver's license to be suspended for: conviction or deferred disposition for a drug offense; non-payment of certain fees owed to correctional facility; or shoplifting motor fuel.
VA	Employment	HB 757	Prohibits inquiry into criminal record by public employers prior to interview. Excepts law enforcement employment and certain other sensitive employments. Va. Code Ann. §§ 2.2-2812.1, 15.2-1505.3
VA	Employment	HB 1540	Adds additional crimes to the list for which an exception is available for employment with a substance abuse or mental health program at community services boards and private providers of behavioral health services licensed by the Department of Behavioral Health and Developmental Services. Allows the Department to hire individuals convicted of various crimes at a state facility if the Department determines the individual has been rehabilitated successfully and is not a risk to those receiving services.
VA	Employment; Record Relief	SB 2 / HB 972	Decriminalizes marijuana possession by converting it to a civil fine, restricts public access to records relating to past arrests, charges, or convictions for this offense, prohibits employers and educational institutions from inquiring about them, and prohibits state and local officials from requiring an applicant for a license, permit, registration, or governmental service to disclose information about them. Va. Code Ann. §§ 18.2-250.1; 19.2-389.3.
VT	Occupational Licensing	S.233	Vermont has a weak law regulating occupational licensing, allowing discipline for “unprofessional conduct” based on “[c]onviction of a crime related to the practice of the profession or conviction of a felony, whether or not related to the practice of the profession.” S233 requires licensing boards to provide a pre-application determination regarding whether an applicant’s criminal background would disqualify the applicant from licensure in the profession(s) for which the applicant may thereafter seek licensure. This request shall provide documentation related to the individual’s conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure. An applicant would pay a \$25 fee for a “second chance determination” request, and this fee would be deducted from the license application fee if the applicant does thereafter seek licensure. The new law applies to the professions and occupations regulated by the Office of Professional Regulation, the Department of Environmental Conservation (for well drillers), the Standards Board for Professional Educators, the Board of Medical Practice, the Electricians’ Licensing Board, and the Plumbers’ Examining Board.
VT	Record Relief	S.234	Authorizes automatic expungement of convictions involving possession of 2 ounces or less of marijuana entered prior to January 1, 2021, with expungement to be completed no later than January 1, 2022.

WA	Other	HB 2870	Creates a social equity program to reduce barriers to entry to the cannabis industry for individuals and communities most adversely impacted by the enforcement of cannabis-related laws.
WA	Record Relief	HB 2794	Facilitates juvenile sealing by omitting the requirement of a hearing if the person is off supervision and has paid restitution. Wash. Rev. Code § 13.50.260.
WA	Sex Offense Registration	SB 6180	Washington law allows juveniles to participate in a “special sex offender disposition alternative (SSODA)” if they have not committed a serious violent offense and have no prior sex offense history. Under SB 6180, the SSODA disposition is made available to juveniles found to have committed assault in the fourth degree with a sexual motivation. In addition, the court is required to terminate registration upon completion of the SSODA period (usually two years) unless it finds that the juvenile is not sufficiently rehabilitated to warrant removal.
WV	Driver's Licenses	HB 4958	Eliminates the ability of a person's driver's license to be suspended for the failure to pay court fines, costs, forfeitures, or penalties, and instead provides for payment plans; allows people with outstanding debt to have their licenses reinstated upon entering a payment plan.
WV	Occupational Licensing	HB 4352	HB 4352 and HB 4353 extend regulation enacted in 2019 to a variety of different licenses, applying a "rational nexus" standard for denial, lifting mandatory bars after five years, and authorizing a preliminary determination.
WV	Occupational Licensing	HB 4353	See above.
WV	Record Relief	SB 562	Provides that a state resident seeking expungement of convictions in multiple counties may file a petition for expungement in his or her county of residence; deletes a provision that a person may file only one expungement petition under either the general expungement authority or the special treatment/job program authority. W. Va. Code §§ 61-11-26, -26a.
WY	Record Relief	SF 50	Provides that no conviction for the purchase, possession, or use of nicotine products by persons under 21 shall be reported by the court to law enforcement agencies; and upon payment of the fine, the conviction “shall be expunged by operation of law...six (6) months after the entry of conviction.” Wyo. Stat. Ann. §§ 14-3-304, -305.