



OJJDP

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# JUVENILE JUSTICE

BULLETIN



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## From the Administrator

Involvement with the juvenile justice system may result in collateral consequences—sanctions and disqualifications that can place an unanticipated burden on rehabilitated youth transitioning back to their communities following out-of-home placement. Collateral consequences can negatively impact a youth's access to higher education, employment, housing, and ability to serve in the military.

Although states continue to pass new laws and increase public awareness efforts, expunging juvenile records is still a complicated process. State laws vary widely and it is not always clear exactly what expungement, sealing, or confidentiality covers. Fortunately, there are emerging practices that are helping youth, families, and professionals expunge juvenile records.

Successful reentry reduces recidivism and increases public safety. It is our hope that the information contained in this bulletin will help court personnel, service providers, and youth advocates mitigate the effects of collateral consequences.

Balancing public safety with the needs of juvenile offenders seeking to lead productive lives without unnecessary encumbrances is a challenge. OJJDP is proud to support states as they work to strike this careful balance.

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## Expunging Juvenile Records: Misconceptions, Collateral Consequences, and Emerging Practices

Andrea R. Coleman

### Highlights

This bulletin discusses common misconceptions surrounding expungement. It also provides information about the collateral consequences of juvenile records as well as federal, state, and local emerging practices.

The key information and findings include the following:

- Expungement, sealing, and confidentiality are three legally distinct methods for destroying or limiting access to juvenile records. However, these methods may permit police, courts, or the public access to juvenile records, depending on state laws.
- The public and impacted youth often erroneously believe that once police and courts expunge juvenile records they no longer exist. The handling of expunged juvenile records varies widely from state to state.
- Youth with juvenile records frequently experience collateral consequences of their arrest or adjudication, which may include difficulty accessing educational services, obtaining employment, serving in the military, and finding and maintaining housing.
- States, localities, and the federal government have implemented promising practices to decrease collateral consequences, including "ban the box" legislation and expungement clinics (Avery and Hernandez, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Strout, 2016).



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In the absence of national data on the extent of juvenile records expungement, state and local data provide an understanding of the scope of the problem. From 2012 to 2013, 70 out of 25,000 arrested youth and 661 out of 5,994 court cases involving youth resulted in juvenile records being expunged in Chicago (Oberman and Lynch, 2014). In addition, a 2016 report from the Illinois Juvenile Justice Commission revealed that for every 1,000 juvenile arrests, the state expunged less than one-third of 1 percent. The commission noted, “This low rate remained relatively consistent regardless of the number of individuals arrested in the jurisdiction” (Illinois Juvenile Justice Commission, 2016: 51).

In 2017, Illinois passed a law automatically expunging arrest records not resulting in a delinquency adjudication for specific offenses after a certain amount of time has passed. The law also restricts public access to juvenile records. Even though Louisiana also offers expungements for arrest records not leading to adjudication, youth must petition to obtain an expungement. It does not automatically occur (National Conference of State Legislatures, 2018).

In 2016, Delaware passed Senate Bill 198 (streamlining the process for mandatory expungement) and Senate Bill 54 (expanding eligibility criteria for expungement). As a result, the state approved 300 juvenile record expungement petitions. Prior to the reform effort, Delaware only had confidentiality and sealing laws, so youth could not petition to have their juvenile records expunged (Juvenile Law Center, 2014; Minutola and Shah, 2018).

### Misconceptions

#### 1. States automatically expunge, seal, or maintain confidentiality of juvenile records when youth turn 18.

According to the research literature, a common misconception is that states automatically expunge, seal, or keep juvenile records confidential when youth turn 18. In *Addressing the Collateral Consequences of Convictions for Young Offenders*, Nellis stated, “A common assumption is that individuals who are processed in the juvenile justice system have their records destroyed (expunged) when they turn 18. This is not the case. The laws governing whether a juvenile record is sealed (not accessible by the public) or expunged vary from state to state” (Nellis, 2011: 22).

### TERMS TO KNOW

- **Expungement** is the process of destroying and eliminating juvenile records. The goal of expungement is to make it as though the records never existed. The process is not always comprehensive in practice.
- **Sealing** makes juvenile records unavailable to the public but allows some agencies and individuals to access records.
- **Confidentiality laws** require that states make juvenile records confidential, allowing access to schools, crime victims, the media, and the public in specific instances.

This misconception persists because youth and the public assume confidentiality uniformly extends to all juvenile records (Coalition for Juvenile Justice, 2019; Juvenile Law Center, 2014; McMullen, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Rosado, 2014). Currently, 13 states and the District of Columbia have limited provisions that expunge juvenile records; however, the juvenile court, prosecutor, probation, or other agency such as a state department of juvenile justice must initiate the process (Nellis, 2011; Shah, Fine, and Gullen, 2014).

The laws of California, Illinois, Nebraska, Nevada, New Mexico, Oregon, and Texas require agencies to notify youth about the process to expunge or seal their juvenile records. South Dakota and Wyoming only allow expungement or sealing via a petition, and after a court finding of rehabilitation. Georgia and South Carolina also require courts to make a finding of rehabilitation before they seal juvenile records.

Arizona, California, and Nebraska “set aside”<sup>1</sup> juvenile records, which allows youth to avoid the consequences of delinquency findings; however, a set-aside does not seal or prevent public access (Shah, Fine, and Gullen, 2014). New Hampshire, Oregon, and Washington recently added record sealing to their set-aside provisions.

Even though all state juvenile codes require confidentiality for juvenile court proceedings, Illinois, Montana, Nevada, and Virginia only seal records when youth turn 18 or 21, or if they have not committed a new offense within 5 years of the initial offense. Further, few states seal or expunge all juvenile records. The number of records eligible for sealing and expungement may be limited due to how state laws define “records.”

Some states are making efforts to include more records. In 2017, West Virginia followed California, Idaho, and North Dakota by allowing courts to reduce lesser felonies to misdemeanor offenses (Love, Gaines, and Osborne, 2018). Reducing charges to misdemeanors makes more records eligible for expungement.

The misconception that states automatically expunge, seal, or maintain confidentiality when youth turn 18 is further complicated by the breadth and depth of information included in juvenile records, which is not exclusive to juvenile court records and may include those from police and other agencies.

## ***2. Expunging, sealing, and maintaining confidentiality automatically applies to all juvenile court and police records.***

Expunging, sealing, and maintaining confidentiality may not always apply to both court and police records. Many

stakeholders assume that juvenile records only contain court information. However, juvenile records often include police records that may contain DNA, fingerprints, photographs, and other personal information. For instance, some state laws include explicit provisions that juvenile records can contain fingerprints and DNA (Love, Gaines, and Osborne, 2018; Radice, 2017).

Although 15 states limit expungement to juvenile court records only, 25 states and the District of Columbia allow youth to petition to expunge both their police and court records under certain conditions. Idaho and Michigan allow expungement of fingerprints and DNA in addition to court records. Indiana youth can petition to expunge police and court records, as well as records from other agencies. Kansas has a similar law allowing youth to expunge all records (Shah, Fine, and Gullen, 2014).

In Oregon, expungement includes a fingerprint or photograph file, report, and any other pertinent law enforcement or court information in a juvenile’s record (Love, Gaines, and Osborne, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014). Although Washington permits expungement and physical destruction of police and court records, its law does not include photographs, fingerprints, palm prints, sole prints, or any other identifying information. While expunging, sealing, and keeping juvenile records confidential may all address access to police records (e.g., DNA, fingerprints, photographs, and other information), agencies, youth, and the public often erroneously assume they are legally the same.

### ***3. Expunging, sealing, and confidentiality are the same.***

Even though the terms expungement, sealing, and confidentiality are sometimes used interchangeably, they are three legally distinct methods for handling juvenile records. Radice (2017: 408) says, “expungement has been used to refer to both destroying records and sealing them. The common perception...is that criminal records are destroyed. But state statutes vary widely, and many use the term expunge when in reality they are only sealing...from public access; the records still exist.”

While Kentucky uses expungement and sealing interchangeably in practice, Idaho’s law explicitly permits the use of the two terms for the same process. In California, Georgia, and Ohio, sealing has the same legal weight as expungement.

Generally, expungement laws require states to permanently destroy records, expunge police and court records or court records only, expunge most juvenile offenses, and expunge by a certain age. Only 18 states require various methods of physically destroying juvenile records, which includes electronic or paper form, while some require sealing



and physical destruction. For example, Oregon requires sealing and when it does expunge the juvenile records, they “retroactively cease to exist” (Shah, Fine, and Gullen, 2014: 24).

Sealing requires states to make juvenile records available to specific agencies and individuals but unavailable to the public. Thirty-one states require sealing under specific guidelines. For example, Nebraska prevents potential employers, landlords, and educational institutions from accessing records; however, the law excludes police. In Massachusetts, police cannot access records sealed for 3 years or more from the date of the initial request.

Finally, states’ confidentiality laws prevent dissemination, access, or use of juvenile records. Statutory exceptions allow access to specific information to assist with needed services or to enhance public safety. For instance, North Dakota keeps juvenile records confidential except if a youth escapes from a secure facility or if there is a threat to national security. Alaska’s law has a public safety exception that says local and state police may disclose information in the interest of public safety, but the law does not define or specify who determines public safety (Shah, Fine, and Gullen, 2014).

Because all state laws require confidentiality throughout juvenile justice processing with some exceptions (e.g., youth adjudicated in the criminal justice system), it is logical to believe juvenile records remain confidential even though many states can allow access under certain conditions.

#### ***4. All juvenile records remain confidential.***

Generally, the public believes that juvenile records remain confidential due to the juvenile justice system’s historical goal of rehabilitation and removing the stigma of a criminal record (Shah, Fine, and Gullen, 2014). However,

33 states and the District of Columbia allow schools to access police and court records, as statutory provisions do not afford complete confidentiality.

Shah and Strout (2016) suggested that even though most state laws require the juvenile justice system to keep records confidential, these laws have several exceptions that limit confidentiality based on the offense, the number of adjudicated offenses, or the youth’s age. For instance, Vermont requires schools to get permission from the court before they can access juvenile records. In Indiana, police and courts can release juvenile records to superintendents or school administrators if written requests specify the school needs them for educational purposes or public safety. In Louisiana and New Mexico, schools can only get essential information to facilitate services or fulfill educational needs for youth and their families.

Some states only allow schools to access information related to the type of offense a youth commits. For example, in Maryland, police can notify a school if they arrested a young person who was a gang member. In Connecticut, police must notify the school superintendent if they arrest a youth for a Class A misdemeanor or felony (Shah, Fine, and Gullen, 2014).

Other variations in state laws permit victims of juvenile crime and the public to access specific information. Massachusetts allows limited public access to the records of youth ages 14 to 18 who were previously adjudicated as adults at least twice (Illinois Juvenile Justice Commission, 2016; Jacobs, 2013; McMullen, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Rosado, 2014). Similarly, Nevada allows a public broadcast of youth’s names and felony charges in cases that resulted in bodily harm or death. Arizona, Idaho, Iowa, Kansas, Michigan, Montana, Oregon, and Washington allow public access with some exceptions. For instance, while Oregon and Washington do not allow the public to access youth’s medical history (i.e., psychological evaluations and medical records), they can obtain their name, date of birth, and charges. Tennessee permits public access based on the

*"A common assumption is that a juvenile's record is expunged when he or she turn 18. This is not the case. The laws vary from state to state."*

seriousness of the charges (e.g., second-degree murder, aggravated robbery, and kidnapping), and Minnesota grants public access for youth age 16 and older charged with a felony (Shah, Fine, and Gullen, 2014). Delaware allows the media to obtain juvenile records automatically or for specific cases via a court order. For example, law enforcement must release the names of youth charged with a particular felony or Class A misdemeanors upon media request (Shah, Fine, and Gullen, 2014).

The advent of technology also allows the public to easily view news coverage about youth charged with more serious offenses. Internet searches can result in a "hit" revealing juvenile records (Radice, 2017: 404; McMullen, 2018). Kansas allows the public to access juvenile records via an online database for youth age 14 and older (Radice, 2017; Shah, Fine, and Gullen, 2014). Wisconsin's Consolidated Court Automation Program (CCAP) provides, in part, arrests and felony and misdemeanor charges. The site includes misdemeanor and felony cases that the public can access for up to five decades (McMullen, 2018; Desmond, 2016). Although CCAP added a disclaimer explaining that an arrest does not mean the court filed charges or adjudicated the youth as delinquent and does not post mugshots, the public still may not understand how the juvenile justice system works. As a result, the public may access and disseminate this information, and it may result in negative consequences for youth with arrest records (Lageson, 2016; Radice, 2017).

A few states have information-sharing agreements with private companies that sell juvenile records online for a nominal fee. State laws permitting public access to juvenile records or selling information to private companies, including credit-reporting agencies, can have collateral consequences that make it difficult for youth involved with the juvenile justice system to transition successfully into adulthood (Shah and Strout, 2016).

## Collateral Consequences

Youth with juvenile records frequently experience collateral consequences of their arrest or adjudication. These consequences are in addition to any fines or sentences handed down by juvenile courts. According to the National Institute of Justice (Berson, 2016: 25), collateral consequences are a "host of sanctions and disqualifications that can place an unanticipated burden on individuals trying to re-enter society and lead lives as productive citizens." Significant consequences noted in the literature are difficulties accessing educational services such as student loans, obtaining employment, finding and maintaining housing, and entering and serving in the military (Henning, 2004; Jacobs, 2013; McMullen, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Rosado, 2014; Shah and Strout, 2016).

Because of these collateral consequences, advocacy groups, media outlets, and scholars continue to emphasize how the handling of juvenile records can disrupt the successful transition into adulthood. This bulletin outlines the most significant consequences below.

### Accessing Educational Services

Youth with juvenile records often have difficulty enrolling in college, accessing vocational training, and obtaining licensure from certain programs such as nursing. For example, Colorado can deny occupational licenses to youth if they have juvenile records. Childcare facilities in Colorado may not receive funding if they have employees who were adjudicated delinquent for certain offenses. Further, some state licensing agencies ask about juvenile adjudications, which can automatically prevent youth from getting occupational licenses and jobs at other state agencies (Shah and Strout, 2016; Radice, 2017).

Historically, more than half of universities collected criminal justice history as a component of their admission process. Starting in 2006, many institutions of higher learning used the Common Application<sup>2</sup> to ask applicants

## DINA'S STORY

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"At 15, I stole my neighbor's car and found out I was pregnant. A judge sentenced me to six months in a residential facility for pregnant juvenile delinquents. I didn't understand that my fingerprints were being transmitted to the FBI database because I had committed a felony. After returning home, I got back on track. I got my GED and then completed an associate's of science degree. But after getting accepted

Source: Pettinelli, 2015.

into a nursing program, I discovered that my juvenile record could stop me from going to school after all.... At that point it finally hit me just how much of an impact my juvenile record would have on my life. Anytime I apply for a job that requires a background check with fingerprinting, such as nursing, police, government, or in schools, they can find my juvenile arrest, no matter my age."

to disclose previous criminal convictions and delinquency adjudications. About 20 percent of the institutions of higher learning that ask applicants about juvenile records denied admission to those who disclosed their records (Shah and Strout, 2016). More than 30 percent of these institutions have an unfavorable view of youth who have juvenile records (Shah and Strout, 2016). Colleges and universities deny admission assuming that keeping applicants with juvenile records from attending will make campuses safer (Center for Community Alternatives, 2010, 2015; Radice, 2017; Shah and Strout, 2016).

After pressure from advocacy groups, some colleges and universities voluntarily removed the criminal history question. As of the 2019–20 college application year, the Common Application removed the section that collected criminal history information (Davis, 2018).

Because colleges and universities might require applicants to disclose or explain a delinquency adjudication, potential applicants may not complete the application process. A study of the State University of New York found that almost two-third of applicants who started the Common Application online failed to finish and submit the application if they answered "yes" to questions about prior delinquency adjudications (Radice, 2017).

The Lawyer's Committee on Civil Rights opened an investigation into colleges' practices of inquiring about

arrests and criminal and juvenile records. The organization suggested that these types of admission practices could contribute to the underrepresentation of minority youth in college (Shah and Strout, 2016). In addition to barriers with the application process, some states permanently or temporarily deny state financial aid based on specific offenses (e.g., drug offenses) that result in delinquency adjudications (Nellis, 2011: 23).

## Obtaining Employment

Youth with juvenile records may encounter significant barriers to obtaining gainful employment. One of the biggest obstacles is employers who ask about records. For example, an application that asks about prior arrests could lead to employers accessing arrest records. Youth may not be able to answer "no" to questions about arrests, but could answer "no" if asked about an adjudication or conviction. If youth answer "yes" to questions about arrest, they might feel obligated to explain the reason for the arrest (Radice, 2017; Shah and Strout, 2016).

Private employers asking youth about their juvenile record is especially problematic because they may conflate criminal convictions and delinquency adjudications. The Illinois Juvenile Justice Commission (2016: 43) said "... A youth hoping to begin a new job with a showing of honesty might unnecessarily disclose a past adjudication

*"State laws permitting public access to juvenile records or selling information to private companies, including credit-reporting agencies, can result in collateral consequences for youth."*

when prompted to disclose his convictions, and an employer might not distinguish between the two.”

Even in states that do not permit employers to access expunged, sealed, or confidential juvenile records, they can still ask youth to disclose the information. For example, the *Employment Screening 2015: Background Screening Trends & Practice* found that 53 percent of employers continued to ask applicants about criminal records on employment applications despite the Equal Employment Opportunity Commission’s recommendations to eliminate these questions about past convictions, and local and state laws and policies that “ban the box” (Shah and Strout, 2016). “Ban the box” is a national effort to remove questions about prior arrests and convictions from employment applications.

More than 10 percent of employers reported that minor criminal lawbreaking would prevent them from hiring a prospective applicant (Shah and Strout, 2016). Rodriguez and Emsellem (2011) also found that employers were more than half as likely to call back or offer jobs to applicants with a criminal record, which disproportionately affects racial and ethnic minorities. In addition, Holzer, Raphael, and Stoll (2002) found that more than 40 percent of employers reported they would definitely or probably not hire an applicant with a criminal record for a job that did not require a college degree.

Similarly, the Illinois Juvenile Justice Commission (2016) found that nearly 70 percent of employers from more than 50 corporations with online employment applications asked youth to disclose arrests or convictions, or required criminal background checks. The applications did not distinguish between youth and adult arrests or convictions. They also did not clearly state that applicants did not have to disclose their records if the offenses occurred when they were minors. Illinois allows some employers to obtain juvenile records and ask about prior offending on applications or in interviews. Employers conducting background checks can also retrieve delinquency adjudications from private databases not subject to the Fair Credit Reporting Act.

To illustrate the difficulty of obtaining employment with a juvenile record, the Illinois Juvenile Justice Commission (2016: 43) quoted a probation officer who said, “I absolutely believe that juvenile records affect employment. We advise our youth not to divulge their history, but I have had that hurt them. One youth said ‘no’ on his application and somehow his employer found out he had an arrest, and he was fired because he ‘lied’ on his application.”

Youth with juvenile records also experience challenges when attempting to find employment at local and state agencies. Because these agencies are public entities, they often are able to access juvenile records (Radice, 2017; Shah and Strout, 2016).

## Serving in the Military

The challenges that youth offenders face in finding employment also extend to the U.S. military. Per federal requirements, the military has full access and extensively reviews criminal and juvenile records for admission to the Army, Navy, Air Force, or Marine Corps (Illinois Juvenile Justice Commission, 2016; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Strout, 2016). Using juvenile records as a criterion for military service often conflicts with the state expungement, sealing, or confidentiality provisions discussed previously.

The military has a “moral qualification” for admission, so even if youth manage to expunge their juvenile records, they must disclose the information when they enlist. Although youth can request a “moral waiver” if they have a juvenile record, it would not apply to certain offenses such as assault and battery (Shah and Strout, 2016).





## Sex Offenses as Barriers to Employment and Military Service

Unlike other offenses, sex offenses and subsequent placement on sex offender registries are not subject to expungement, sealing, and confidentiality laws in most states, so the military and other potential employers can easily retrieve this information (Radice, 2017). Moreover, states can adjudicate youth for transmitting child pornography to their peers when they are engaging in a practice commonly known as “sexting” (e.g., electronically transmitting photos showing them wearing little or no clothing). Because states can adjudicate youth as sex offenders and put them on sex offender registries, these offenses can exist on records for the rest of an individual’s life and can prevent them from serving in the military or finding and maintaining employment (Radice, 2017).

## Finding and Maintaining Housing

Another potential lifelong consequence of arrest and/or adjudication is difficulty finding or maintaining housing. Guaranteeing stable housing for youth with juvenile records is a vital component of successful reentry. If youth cannot find or keep stable housing, the likelihood of reoffending increases and they may find themselves in the “cycle of incarceration” (Toro, Dworsky, and Fowler, 2007: 17).

For example, while the Public Housing Authorities (PHAs) cannot legally obtain juvenile records, they often access and use them as a criterion to determine housing eligibility. This is due to the 2002 Supreme Court decision that allowed PHAs to ask families about prior criminal and delinquent offenses and adjudications pursuant to the Cranston-Gonzalez National Affordable Housing Act of 1990 (Henning, 2004; Shah and Strout, 2016).

PHAs also frequently use informal methods to obtain information about juvenile records. These informal

methods often include information-sharing agreements between law enforcement and PHAs, as Henning (2004: 563) noted: “When PHAs do not have direct knowledge of delinquent conduct, they may obtain that information from informal, and potentially unlawful, collaboration between public housing police and local law enforcement agencies...”

Furthermore, like employers, PHAs search public online databases and may ask youth and their families to disclose juvenile records as part of the prescreening processes. For instance, the Boston Housing Authority required applicants age 13 and older to sign a release allowing access to juvenile records and looked for various offenses such as crimes against property, fraud, violence, larceny, and drug and alcohol-related offenses. They screened for these offenses to determine if they “interfere with the health, safety, or peaceful enjoyment of the premises by other residents” (Henning, 2004: 570).

In addition to working informally with law enforcement, landlords also frequently solicit information from residents who might know or have some familiarity with youth and their families. Because private landlords have broad discretion, they can evict youth and their families even if courts dismiss charges.

The Illinois Juvenile Justice Commission (2016: 45) quoted an assistant public defender, who said, “I had a case where the kid was kicked out of his housing pretrial—the landlord knew about the charges because the offense happened in the building. The kid was later found not guilty... He had never had a prior case. We are creating a whole class of people who can live nowhere!”

The Illinois Juvenile Justice Commission (2016) also learned that private landlords ask about juvenile and criminal records to alleviate chronic property nuisances that can carry fines if law enforcement repeatedly responds to complaints. Landlords justify asking about juvenile records because they say the information protects them from liability. However, they often use information from juvenile records as an excuse to evict youth and their families (Shah and Strout, 2016; Watstein, 2009).

*"Most states require juvenile records to be kept confidential. However, there are several exceptions that limit confidentiality based on the offense, the number of adjudicated offenses, or the youth's age."*

Housing authorities may not understand juvenile justice processing. As a result, they could decide to evict youth and their families even if the court dismissed charges. Juvenile records can also "trigger a public housing denial when the juvenile is an adult," according to Radice (2017: 388). This action could permanently affect an individual's ability to access and maintain housing.

## Emerging Practices

This section discusses promising practices implemented by states, localities, and the federal government to decrease collateral consequences.

### Ban the Box

Ban the box legislation seeks to remove questions about criminal history from employment applications. Specifically, it seeks to eliminate the checkbox that asks if applicants have been convicted of a crime. "Fair chance" policies are designed to increase the chances that job candidates with juvenile records will get interviews because applicants will not be required to disclose their records.

To date, 31 states, the District of Columbia, more than 150 countries, and nearly 200 jurisdictions have passed some form of ban the box legislation or fair chance policy (Avery and Hernandez, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Strout, 2016). Eleven states also require private employers to remove questions from job applications that ask about previous criminal convictions.

For example, Fulton County, Georgia, issued a policy in 2014 directing its personnel department to remove questions about past convictions and criminal history from job applications and to refrain from asking these questions before or during a first interview. Applicants also do not have to disclose arrests that did not result in a criminal conviction or juvenile adjudication. The county must notify applicants if an unfavorable action occurred during a background check for sensitive job positions (Avery and Hernandez, 2018).

### Strengthening State Laws

The Juvenile Law Center's (2014) report, *Failed Policies, Forfeited Futures: A Nationwide Scorecard on Juvenile Records*, scores how states and the District of Columbia handle juvenile records (Love, Gaines, and Osborne, 2018; Radice, 2017; Shah, Fine, and Gullen, 2014; Shah and Rosado, 2014). No states received 5 stars, 8 states received 4 stars, 28 states received 3 stars, 14 states received 2 stars, and 1 state received no stars.<sup>3</sup> The Juvenile Law Center (2014) ranked Indiana, Maryland, Missouri, Oregon, and Wisconsin as the best states for limiting access to juvenile records. These states expunge and seal all law enforcement and court records without exception, all juvenile offenses are eligible for expungement without exception, and they automatically notify youth of their eligibility. These states also discharged and disposed of cases regardless of a youth's age and did not charge fees to start the expungement or sealing process.

Rating states' confidentiality provisions only, Radice (2017) ranked Louisiana, New Hampshire, New York, Rhode Island, South Dakota, Vermont, and Wyoming as the most robust because they explicitly prohibited the public from accessing juvenile records that included arrests, probation, and court information. Similarly, the Juvenile Law Center (2014) rated New York, Rhode Island, Vermont, and Wyoming as having the most substantial confidentiality provisions. While the Juvenile Law Center (2014) did not identify states with sanctioning provisions imposing fines for violations, they argued that states should add them as an accountability measure.

Further, the research widely held that states should amend their laws to include the physical destruction of juvenile records to mitigate further collateral consequences, as is done in Massachusetts, Nebraska, and Oregon.

### Local, State, and Federal Initiatives

Various federal, state, and local initiatives aim to curtail the collateral consequences of juvenile records via workshops, expungement clinics, and funding programs. For example, Palm Beach County, FL; Chicago, IL; and other jurisdictions sponsored workshops that gave

youth information and resources (e.g., applications, filing fees, and applicable state laws) to help expunge their juvenile records (Oberman and Lynch, 2014; Palm Beach County, Florida Office of the State Attorney, 2018). Also in Chicago, the former Legal Assistance Foundation of Metropolitan Chicago and Cabrini Green Legal Aid collaborated to operate the Juvenile Records Expungement Helpdesk. At the Helpdesk, youth met with attorneys who reviewed juvenile arrest and court records, helped them complete applications for expungement and other paperwork, and represented them in court when needed (Legal Aid Chicago, 2019).

The Utah Commission on Criminal and Juvenile Justice funded a juvenile expungement clinic starting in October 2018. Utah's juvenile expungement clinic is unique because participants older than age 18 receive waivers for fingerprint paperwork, background checks, and court filings, which served as barriers to starting the expungement process (Coalition for Juvenile Justice, 2019; Stilson, 2019).

At the federal level, the U.S. Departments of Justice and Labor funded and developed the online Clean Slate Clearinghouse ([www.cleanslateclearinghouse.org](http://www.cleanslateclearinghouse.org)), which helps support clearing and expunging criminal and juvenile justice records. Support includes disseminating accurate and current record clearance and mitigation information, as well as contact information for legal service providers in all U.S. states and territories. The clearinghouse also provides various tools and resources to legal service providers and equips policymakers with information they need to compare their state's policies to other states and learn about best practices. The clearinghouse includes an interactive nationwide map, publications, podcasts, training, and other resources.

In addition, the Office of Juvenile Justice and Delinquency Prevention funded youth reentry projects with legal service components to help youth expunge and seal their records when they return to their communities from secure confinement or out-of-home placement. The program, a component of the Office's Enhancing Youth Access to Justice Initiative, also helps youth address barriers to public housing, employment, and education.

## Conclusion

Research identified a variety of misconceptions regarding expunging juvenile records that persist—leading to an array of unintended consequences for youth with arrest and/or court records. Most prominently, the public continues to believe that all states automatically expunge juvenile records when juveniles turn 18 and that all records remain confidential. This is simply not true.

Many youth face collateral consequences from arrests or adjudications that follow them throughout their lives. The most significant collateral consequences—including difficulty finding employment, serving in the military, and accessing educational services and housing—can thwart youth's ability to lead productive lives.

To lessen the impact of collateral consequences, states, localities, and the federal government have implemented various promising practices. Efforts like ban the box are strengthening state laws. Federal programs and online resources are educating employers, landlords, and the public; most importantly, they are helping youth and their families. However, criminal and juvenile justice systems, educational institutions, employers, landlords, and the public all have an ongoing role to play in ensuring that youthful transgressions do not lead to permanent collateral consequences.

## Endnotes

1. Generally, a youth can petition a court to hold juvenile records in abeyance (or temporarily place them on hold) to offset the consequences of a delinquency adjudication and limit public access.
2. The Common Application is a single online college application form used by more than 800 colleges and universities.
3. The rating methodology measured the degree to which states kept records confidential before expungement and how readily available expunging and sealing were in each state. The Juvenile Law Center then compared each state's results to its rating methodology to obtain a final score. States received rankings as follows: 80 to 100 percent—five stars, 60 to 79 percent—four stars, 40 to 59 percent—three stars, 20 to 39 percent—two stars, and 0 to 19 percent—one star.

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