

RHODE ISLAND

The following report shows the progress your state has made toward meeting the five key goals related to collateral consequences that prevent people with criminal records from getting jobs or occupational licenses.



Goal 1:

Allow decision-makers greater flexibility in deciding whether to hire workers with convictions and allow workers to be free from collateral consequences after a reasonable period of time.

1A. Reduce mandatory consequences.

- Rhode Island law places no general limitations on the mandatory imposition of structural barriers to employment or licensure.
- Of the more than 300 employment-related consequences imposed by Rhode Island law, 50 percent are mandatory and must be imposed regardless of the specifics of the offense or evidence of a worker's rehabilitation.*

1B. Limit the duration of consequences.

- Rhode Island law places no general limits on the age of convictions that may be considered by employers or licensing bodies.
- Only 24 percent of the more than 300 employment-related consequences imposed by Rhode Island law are limited in their duration. The remainder persist indefinitely.*

Goal 2:

Align offenses that trigger collateral consequences with valid public safety concerns.

2A. Eliminate the use of vague terms to describe triggering offenses and offense categories.

- Rhode Island law places no general limits on the use of vague terms to describe triggering offenses and offense categories in the employment or licensing context.

2B. Broadly prohibit consideration of lower-level offenses.

- + Rhode Island law generally prohibits licensing bodies from considering “misdemeanor convictions for which no jail sentence can be imposed.”
- Rhode Island law places no general limits on the categories of offenses that may be used to disqualify workers from employment.

2C. Remove triggering offenses that do not suggest an increased risk to public safety.

- Over 150 of the employment-related collateral consequences imposed by Rhode Island law may be triggered by any felony, and over 50 may be triggered by any crime at all, indicating that more can be done to eliminate triggering offenses that do not suggest an increased risk. *

Goal 3:

Promote fair, consistent application of discretionary consequences.**3A. Require decision-makers to apply a “direct relationship” test.**

- + Rhode Island law generally prohibits licensing bodies from denying applicants solely due to convictions that are not “substantially related” to the licensed activity.
- Rhode Island law places no general limits on the denial of employment for convictions that are not directly related to the job.

3B. Require individualized consideration of applicants with convictions.

- + Rhode Island law generally prohibits conviction-based denial of licensure without first giving individualized consideration to an applicant and their conviction. Evaluation of applicants must include consideration of various factors, including the nature and severity of the offense, the age of the person when the crime was committed, time elapsed since commission of the crime, and evidence of rehabilitation.

- ➖ Rhode Island law does not generally require individualized consideration of applicants and their convictions in employment determinations.

3C. Provide rejected applicants with a written explanation of the reasons for denial.

- ➕ Rhode Island law generally requires licensing bodies to provide a written explanation of the reasons a conviction was deemed disqualifying.
- ➖ Rhode Island law does not generally require employers to provide applicants with a written explanation of conviction-based reasons for denial.

3D. Create or expand accessible pathways to appeal.

- ➕ Rhode Island law generally requires licensing bodies to notify applicants of the intent to issue a conviction-based denial along with information about the disqualifying offense and instructions about how to respond to the potential denial. After receiving a notice of intent to deny, an applicant has 30 days to respond by providing evidence of “mitigation or rehabilitation.”
- ➕ State law requires that notice of a final conviction-based licensure denial be accompanied by information about the process for appealing the determination under the state’s administrative procedure act and information about the earliest date the applicant may reapply for licensure.

Goal 4:

Promote transparency about how workers' convictions are likely to impact employment and licensing opportunities.

4A. Ensure that application materials and other resources clearly explain how convictions are factored into decision-making.

- Rhode Island law does not generally require employers or licensing bodies to provide any specific information about criminal history consideration or other similar materials.
- Few licensing applications provide specific information about whether or how criminal history is considered, even those that inform applicants that background checks may be required.
- Accessible online information about how criminal history is considered in the licensing context is scant.

4B. Provide prospective applicants with a list of the specific offenses that may be disqualifying.

- Rhode Island law does not generally require employers or licensing bodies to list the specific offenses that may result in a discretionary denial.
- Publicly accessible information listing the types of convictions that will trigger a mandatory denial is scant and not routinely included on application materials.

4C. Allow for a pre-application determination of eligibility.

- Rhode Island law does not generally require or authorize a process for pre-application eligibility determinations in employment or licensure.

Goal 5:

Expand the availability and effect of relief mechanisms.

5A. Create or expand long-term relief mechanisms.

- In Rhode Island, long-term relief is most commonly available in the form of expungement. Most offenses are generally eligible after a waiting period of 5 to 10 years, depending upon the offense. Eligibility is significantly restricted for people with multiple convictions.
- Expungement is discretionary in all instances.

5B. Create or expand targeted near-term relief mechanisms.

- In Rhode Island, near-term relief is available in the form of a Certificate of Recovery and Reentry that generally converts mandatory employment and licensing barriers into discretionary ones, allowing workers to be considered for jobs and licenses they would otherwise be ineligible for. Defendants may generally seek a Certificate of Recovery and Reentry from the Parole Board one to three years after release. The Board has broad discretion to grant or deny a request for a certificate. Violent felonies are ineligible, and significant eligibility restrictions may apply for people with multiple convictions.

5C. Limit barriers to accessing relief.

- Expungement is not automatic and is available only upon petition to the court.
- The process for obtaining expungement can be burdensome for petitioners who are filing without an attorney due to filing and service requirements and the fact that a hearing may be required.
- Fees associated with filing for expungement are relatively low.
- Expungement is generally unavailable for people with outstanding fines, fees, and associated financial obligations, which may pose an insurmountable barrier for many otherwise eligible workers.

5D. Ensure that the effects of relief mechanisms on collateral consequences are clear.

- ⊕ Per Rhode Island law, upon expungement of records a person “shall be released from all penalties and disabilities resulting from the crime of which he or she had been convicted...”
- ⊕ Records of expunged convictions are generally unavailable to the public, employers, or licensing bodies.
- ⊕ State law generally prohibits licensing boards from asking about or considering expunged records.
- ⊖ However, expunged records may be provided to certain employers or licensing agencies dealing with law enforcement, childcare, or education or for the purposes of evaluating applicants for admission to the bar.
- ⊕ A person whose record is expunged is given the explicit right to deny the existence of the conviction in most inquiries.
- ⊖ State law does not explicitly prohibit employers from asking about or considering convictions that have been expunged.

**Despite the terms of the laws that impose individual barriers, the operation of a specific barrier upon a specific individual—i.e., whether it is mandatory, time-limited, or triggered by certain types of convictions—may change depending on superseding law (like fair chance licensing provisions) or whether an individual has been granted some form of relief (like expungement or sealing). Significant superseding laws and relief mechanisms are discussed herein to the extent they are applicable.*