



# Reentry, Reintegration, & Employment

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# How NCSL Strengthens Legislatures



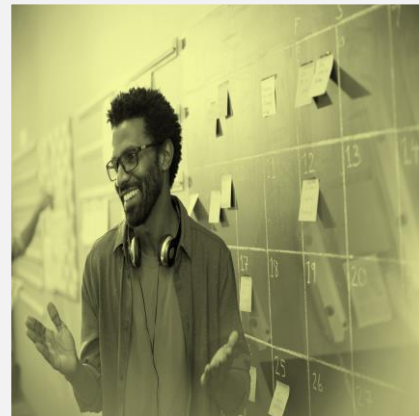
## Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



## Connections

NCSL links legislators and staff with each other and with experts



## Training

NCSL delivers training tailored specifically for legislators and staff



## State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



## Meetings

NCSL meetings facilitate information exchange and policy discussions

# TRENDS

## Legislative Efforts: Reducing Impediments to Gainful Employment

- Education & Job Training
- Sentence Credits
- Identification Upon Release
- Certificates of Rehabilitation and Limited Relief
  - Liability Protections
- Ban the Box
- Record Clearing
- Housing
  - Special Populations

# Education and Job Training

## Maryland – MD Code, Education, § 24-1302

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- There is an Inmate Training and Job Pilot Program at:
  - Bowie State University;
  - Coppin State University;
  - Morgan State University; and
  - The University of Maryland Eastern Shore.
- The Commission may establish a Pilot Program at an institution of postsecondary education not listed through a memorandum of understanding.
- The purpose of each Pilot Program is to provide educational and vocational training opportunities for an individual in the 12 months preceding their date of release.

## Texas – V.T.C., Government Code § 493.034

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- The department shall:
  - Establish a pilot program to provide educational and vocational training, employment, and reentry services to defendants on probation and parole.
  - Determine the eligibility criteria
  - Identify at least two and not more than four sites in this state in which the pilot program will operate.
  - Limit the program to not more than 45 individuals per quarter per program location.
  - Pay providers not less than \$40 per day for each participant.
- The pilot program consists of approximately 180 days of employment-related services and support, as laid out in statute

# Sentence Credits

## Education – 23 States

### Illinois

- 90 days for completion of GED
- 180 days for a bachelor's degree or higher

### Mississippi

- 30 days per 30 days of educational or instructional programs

## Vocational Training – 19 States

### Indiana

- Up to 1 year for career, technical, or vocational education programs

### Ohio

- 1 or 5 days per month for vocational training
- 90 days or 10% (whichever is less) for a technical vocational school program

## Work – 18 States

### Delaware

- Up to 5 days per month for work programs

### Louisiana

- 180 days for workforce development work release program

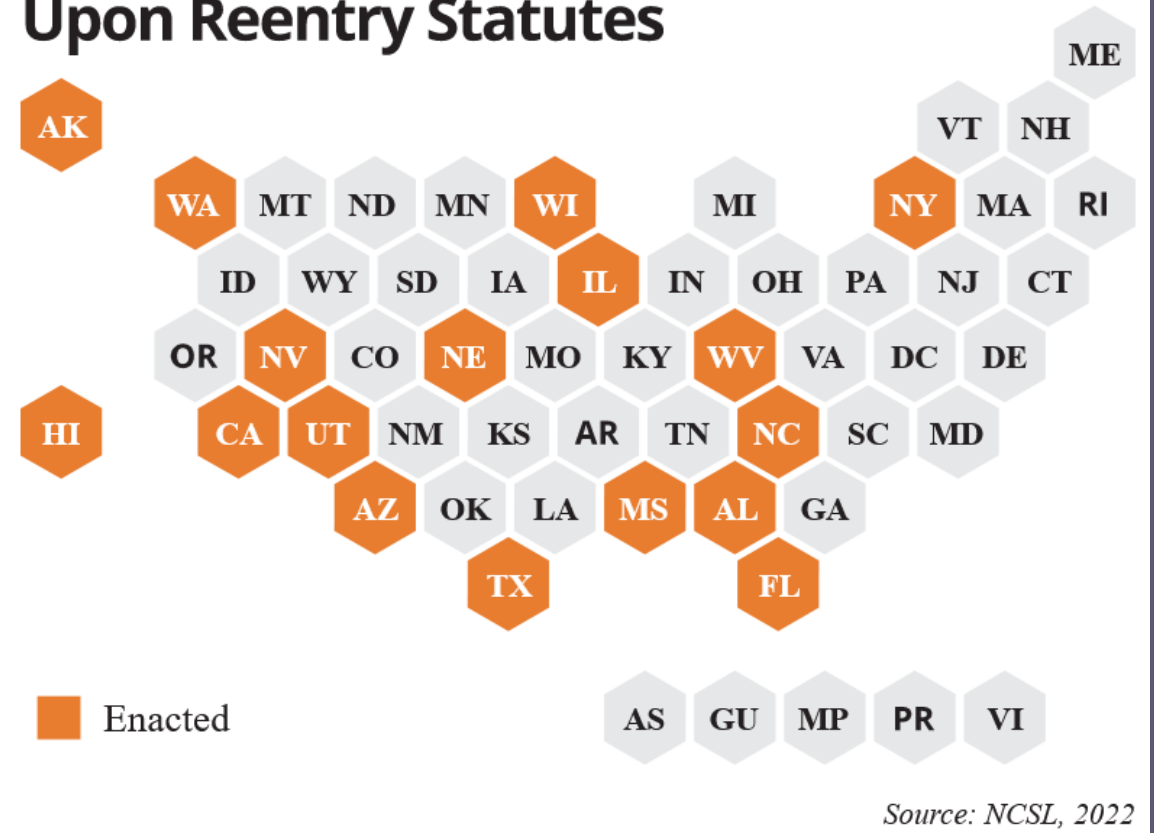


# Identification

## State Identification Upon Release from Prison (W.S. 301.286)

Before an individual is released from prison upon completion of his or her sentence or to parole or extended supervision, the department shall determine if the individual has an operator's license or a state identification card. If the individual has neither, the department shall assist the individual in applying for a state identification card. The department shall determine if the individual is able to pay all or a portion of the fee from the individual's general fund account. The department shall pay any portion of the fee the individual is unable to pay from the individual's general fund account.

## States With Identification Upon Reentry Statutes



# Certificates of Rehabilitation and Limited Relief

## Arizona (HB 2067)

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- Certificate of Second Chance
  - Misdemeanor
    - May issue upon conviction (if first Certificate)
  - Felony Class 4, 5, or 6
    - May issue if at least 2 years have passed
  - Felony Class 2 or 3
    - May issue if at least 5 years have passed
  - Limited liability protections

## New Mexico (SB 183)

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- Uniform Collateral Consequences Act (UCCA)
  - Primary goal is to identify all provisions that impose a collateral sanction or disqualification and all provisions that may afford relief
  - All citations must be published for the legislature
- Order of Limited Relief
  - Tailored
  - May be done during sentencing
  - Liability protections

## Certificates of Qualification for Employment (W.S. 973.25)

- Provides collateral sanction relief
- Eligibility
  - Served at least 24 consecutive months in prison
  - Served 12 consecutive months in prison and at least 12 consecutive months of extended supervision

## Civil Liability (W.S. 895.492)

- Immune from liability for:
  - Intentional acts or omissions of the employee
  - Acts of the employee outside the scope of employment, and
  - Any claim for negligent hiring, retention, training, or supervision
  - Limited exceptions



# Liability Protections



# Ban the Box: Legislation

## Hawaii

- Inquiry of conviction records only after a conditional offer of employment.
- May only withdraw an offer because of a conviction record that bears a **rational relationship** to duties and responsibilities of the job.
- Amended to limit the convictions that can be used under the **rational relationship** test to only those within the past five years (previously ten).

## Colorado

- Prohibits an employer from inquiring or requiring disclosure of an applicant's criminal history on an initial written or electronic application form. (HB 1025)
- Prohibits **state institutions of higher education** from inquiring into or requiring disclosure of an applicant's criminal history or disciplinary history at another academic institution on any form of application for admission. (SB 170)

## New Hampshire

- Prohibits a public employer from inquiring about or conducting a criminal background check on a prospective employee prior to an interview, unless required by state or federal law.

# Ban the Box: Efficacy

## Agan and Starr (2017)

Callback rates increased for Black applicants with records (8% to 10.3%) but decreased for Black applicants without records (13.4% to 10.3%)

Increased racial gap in callback rates (7% to 45%)

## Craigie (2019)

Raised probability for public employment by 4%

No findings of statistical discrimination

## Doleac and Hansen (2018)

Young, low-skilled Black men are **3.4% less likely** to be employed

Older, low-skilled Black men are **4.3% more likely** to be employed

Highly educated Black women are **3.9% more likely** to be employed

## Flake (2019)

27% more likely to get a callback in a city which has implemented ban the box

## Jackson and Zhao (2017)

Reduced employment for people with criminal records by 5%

## Rose (2018)

Had no effect on employment for people with criminal records

# Record Clearing Terminology

## Types of Relief

### Expungement

- Delaware – expungement means all law enforcement agency and court records relating to a case in which an expungement is granted are destroyed, segregated or placed in the custody of the State Bureau of Identification.
- Indiana – expungement only prohibits the release of the person's records to anyone without a court order.

### Sealing

- Arkansas – sealing means to expunge, remove, sequester and treat as confidential the record.
- Colorado – a sealed criminal record is still available to law enforcement agencies, criminal justice agencies, prosecuting attorneys, or agencies required to conduct a criminal history record check on an individual.

### Set-Aside

- Michigan – considered not to have been previously convicted, with some exceptions.
- Nebraska – nullifies the conviction and removes all civil disabilities and disqualifications imposed.



# Record Clearing Process Comparisons

Source: <https://www.ncsl.org/research/civil-and-criminal-justice/state-policies-to-clear-criminal-records.aspx>

## Expungement of Criminal Conviction: An Empirical Study

- Only about 6.5% of eligible individuals receive record clearing within 5 years of eligibility
- Just 6% of set-aside recipients are rearrested within 5 years of their set-aside
- A year after record clearing, people are 11% more likely to be employed and earn 22% higher wages

## California Law Changes: A Hypothetical Study

- Providing automatic relief in place of petition-based would increase eligibility from 15% to 44% of Black Californians and from 21% to 56% of White Californians
- Enacting a seven-year “sunset” rule for those currently excluded from any record-clearing relief would reduce disparity slightly by increasing overall eligibility to 58% of Black Californians and 63% of White Californians

# Record Clearing Process Comparisons

## On Petition

- Convicted individual files a motion with the courts to clear a record. If the petition is successful, record clearing will be ordered by the Court
- Oftentimes allows for challenges to the record clearing by prosecutor or others

## Automatic

- Records of eligible convictions are automatically cleared by courts and agencies following mandatory criteria to do so
- Does not require action on the part of the defendant
- Increases the number of records affected

## Automated

- Brings together automatic record clearing with modern technology
- Software used to automatically clear records
- Large upfront cost, but reduced expenses over time





# Clean Slate Laws

Pennsylvania HB 1419 (2017)

## Eligible Offenses

- 2<sup>nd</sup> & 3<sup>rd</sup> Degree Misdemeanors
- Misdemeanors punishable by two years or less
- Summary convictions, and
- Charges not resulting in convictions

## Non-Eligible Offenses

- Crimes involving danger to persons
- Crimes against families
- Firearm offenses
- Offenses relating to criminal homicide, crimes against an unborn child, assault, kidnapping, and human trafficking
- Sexual Offenses
- Violations relating to abortion
- Cruelty to animals



# Clean Slate Laws

Oklahoma HB 3316 (2022)

## Eligible Offenses

- Non-conviction records of many types
- Misdemeanor with confinement after five years
- Misdemeanor without confinement
- Felonies reclassified as misdemeanors

## Non-Eligible Offenses

- Felonies
- Pardons

## Eligible Offenses

- Misdemeanors which the maximum punishment is imprisonment for not more than 92 days
- Misdemeanors which the maximum punishment is imprisonment for more than 92 days
- Felonies

## Non-Eligible Offenses

- An assaultive crime
- A serious misdemeanor
- A crime of dishonesty
- Any offense punishable by 10 or more years
- A violation which involves a minor, vulnerable adult, injury or serious impairment, or death
- Any violation related to human trafficking

Welcome to

PURE MICHIGAN

## Clean Slate Laws

Michigan HB 4980 (2020)

# Housing & Special Population Needs

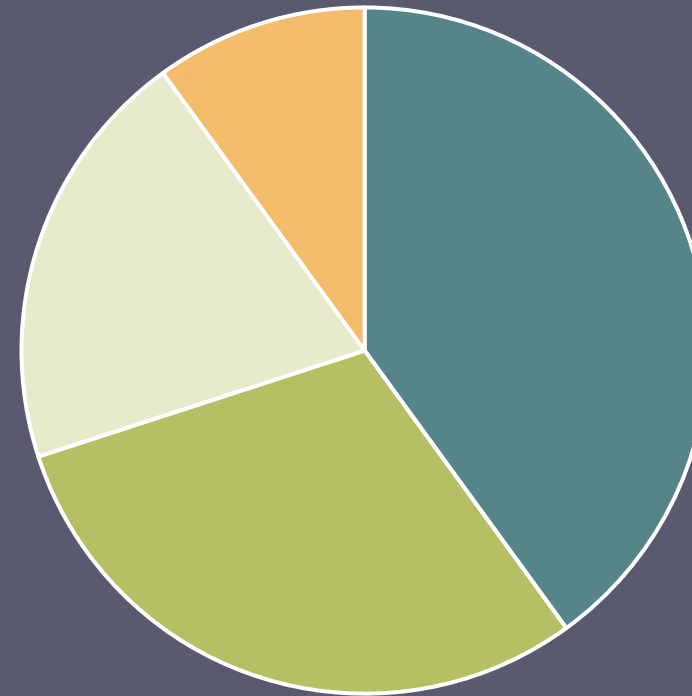
## Sex Offender Population

At least 30 states have residency restriction laws for registered sex offenders (RSOs). In addition, many local governments have enacted their own ordinances regarding residency restrictions.

A number of states offer transitional housing with options for RSOs, but these facilities often limit an individual's length of stay (typically, 60 to 120 days) and can have a long waitlist.

Not long ago, Wisconsin passed a bipartisan bill (SB 60) that would have repealed the state's 1,500-foot residency restriction, but the legislation was vetoed by the Governor.

## Level of Importance



■ SA Recover ■ Employment ■ Housing ■ Food

Data Source: Dong, K.R., Must, A., Tang, A.M. *et al.* Competing priorities that rival health in adults on probation in Rhode Island: substance use recovery, employment, housing, and food intake. *BMC Public Health* **18**, 289 (2018). <https://doi.org/10.1186/s12889-018-5201-7>



Questions?

Comments?

Reach Out!



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