

A fresh start for returning citizens



Senate Bill 288 will make the remedies of record sealing and expungement available to and more easily accessible for a much broader swath of returning citizens.



How changes in the law will help re-entry community

By Andrea Burton, Managing Attorney, and Josh Hinkel, Staff Attorney

Recent changes in state law are good news for Ohioans working to successfully reenter society after interacting with the criminal justice system. [Senate Bill 288](#), which went into effect April 4, 2023, brings sweeping criminal justice reform to our state. Among other things, the law dramatically expands which criminal records can be sealed, provides new provisions for full expungement, and offers other improvements that will mean more low-income returning citizens can succeed after incarceration.

This new law comes after decades of reform in our state. Unfortunately, a large portion of Ohioans have interacted with the criminal justice system in one way or another. [Policy Matters Ohio](#) found that approximately one out of every 11 Ohioans have a felony record and that one out of every three Ohioans have some sort of

criminal record. Additionally, Ohio has an incarceration rate of around 659 per 100,000 people which, according to the Prison Policy Initiative, means the state “[locks up a higher percentage of its people than almost any democracy on earth.](#)” In a recent year, nearly 80,000 residents were incarcerated. These Ohioans are [disproportionately poor men of color](#) who already face enormous uphill battles to achieve equity and wellbeing in our society.

Upon reentry, their odds are even worse. Criminal records haunt many for decades. As reentering citizens build new lives and pick up the pieces with their loved ones, door after door is slammed. Assumptions that criminal records show moral turpitude are devastating, even when many committed lesser crimes like petty theft, driving infractions, minor drug offenses, or failure to pay child support years ago. Securing gainful employment, especially in certain fields, can be a challenge. Approximately one in four jobs are “out of reach or practically out of reach” due to having a criminal record. Many prospective employers and license guidelines require a clean background. Obtaining housing can be even more difficult, especially in a public housing context. Further, with approximately 90% of private landlords stating they check backgrounds for criminal records, it becomes difficult for reentering citizens to find housing. This is especially true considering the [rise of third party screening companies](#) that detect records and immediately advise against renting.

When reentry fails, everyone loses. The result is often individuals returning to prior behaviors to survive, leading to more crime, the deterioration of community and family, and the perpetuated cycle of poverty.

One highly effective solution that helps clear the path for reentering citizens who are ready to be productive members of society is record sealing or expungement. These are court orders that close or delete records of criminal convictions. Ideally, it’s as if the criminal case never happened. Record sealing and expungement mean returning citizens are reunited with many rights and privileges, including the ability to tell employers, landlords, and financial institutions they have no criminal record. Doors that would otherwise be closed stay opened - giving them a real chance to achieve financial stability and overall well being.

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Highlights of the changes include:

- Expanded eligibility: Under the old law, an “eligible offender” for record-sealing was defined by statute. In practice, this was a complicated determination that ultimately left many offenders ineligible. The new law removes this requirement and replaces it with a case-by-case decision in many circumstances. Judges can consider factors like the nature of the offense, the interests of the offender, and input from the prosecutor and victim.
- Available for more offenses: Under SB 288, more offenses can be sealed or expunged, with some exceptions. For example, record-sealing or expungement can now be granted for crimes against victims with younger ages and certain lower tier sex offenses. This could potentially benefit returning citizens who committed offenses when they were young - like fights in high school - that have followed them around for decades. One exception that will benefit some but harm others is the new inability to seal any domestic violence offenses, including those that involved verbal threats.
- Real opportunity for true expungement in Ohio: The new law provides a new, clearer distinction between record-sealing and expungement. In the past in our state, these terms had largely been used interchangeably with few opportunities for true expungement. Under SB 288, an expungement “shall delete, destroy, and erase” a record such that it’s “permanently irretrievable.” There are still exceptions that allow an expunged record to be opened, but fewer than before.
- Shorter waiting periods: A waiting period is the time that must pass between the completion of probation and sanctions and seeking sealing or expungement. The bill updates the waiting period for record-sealing and sets a new waiting period for expungement. For many minor misdemeanors, the waiting period will drop from one year to six months - meaning returning citizens can begin rebuilding their lives that much sooner.
- Fewer fees: Particularly impacting low-income clients, past practice under the old law saw many courts loading returning citizens with fees to undergo the

record-sealing process. Sometimes, these were in excess of \$100 or more. The new law explicitly limits this with clear language capping all local court fees at \$50. This will enable more individuals to access this remedy without financial hardship.

In light of these big changes and the confusing landscape around record-sealing and expungement, we're anticipating a crush of interest around this new law.

While Senate Bill 288 will significantly benefit many Ohioans, other states have enacted even more beneficial reforms. . For example, some states have successfully implemented automatic record-sealing after a certain number of years for certain offenses. [The Clean Slate Initiative](#) advocates for this solution nationwide and has had success in nearby states including Pennsylvania, Michigan, and Kentucky. Automatic record-sealing would remove all barriers to this life-changing benefit while also removing load from legal aid and other support organizations. Likewise, increased prosecutorial autonomy to seal or expunge lesser drug charges could help automatically wipe away some minor records that go on to unduly influence the lives of so many. Finally, sealability of even more lesser offenses (like some minor driving convictions) could ensure reentering citizens have access to the full array of employment opportunities - benefitting not just the individual and family, but the economy and community as a whole.

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