



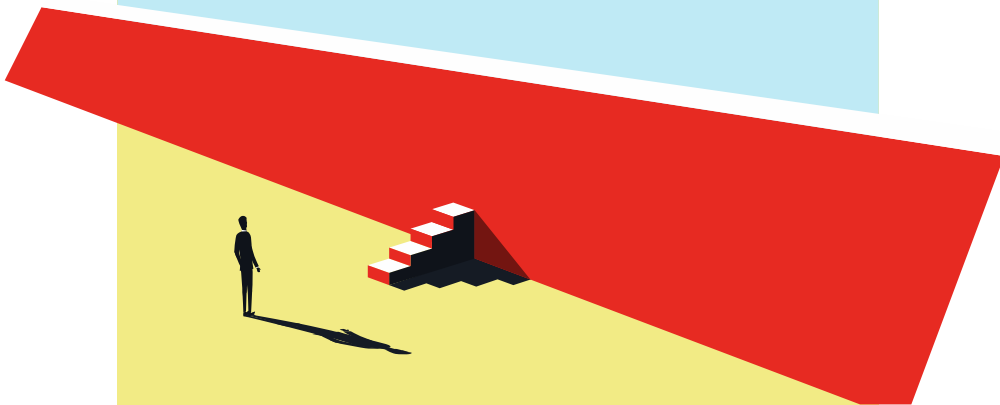
Justice Center

THE COUNCIL OF STATE GOVERNMENTS

Reducing Structural Barriers to School and Work for People with Juvenile Records

July 11, 2021

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Justice Center

THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.



Background and Methodology

Why focus on reducing structural barriers to school and work for people with a juvenile record?

1.5 million youth were adjudicated over the last 5 years.

55 percent of those who were adjudicated are people of color.

16–17 percent unemployment rates for Black youth and young adults, compared to 10–12 percent for White youth/young adults.

<7 percent of people eligible for record sealing/expungement get their records cleared within 5 years of eligibility.

Why focus on reducing structural barriers to school and work for people with a juvenile record?

- Educational attainment and employment are associated with improved lifetime earnings and reduced crime.
- Employers are more reluctant to hire people who have been convicted of a crime—including individuals whose only offenses are juvenile adjudications.
- Postsecondary application attrition rates have been shown to be over three times higher for people with a record than their peers without a record.
- Youth and young adults are developmentally wired to act impulsively, not consider long-term consequences, and be heavily swayed by their peers.

The CSG Justice Center conducted a first-of-its-kind examination of state statutory and administrative barriers that affect people with juvenile adjudications.

The examination focused on education- and employment-related collateral consequences.

Selected representative sample of 12 states for review

Reviewed justice, education, occupational licensing, and employment statutes

Reviewed public, private, and community college as well as largest public and private employer applications

Conducted national focus groups with a diverse set of stakeholders, including people with lived experience

Study Key Findings

1 State statutes appear to be designed to limit collateral consequences based on an adjudication, but these provisions may not achieve their intended purpose in practice.

- A. **Inexact Language:** Makes it difficult for those applying the laws, and those affected by the laws, to understand them or their potential consequences.
- B. **Explicit Exceptions:** Restrict career choices and access to financial aid, sometimes without a clear public safety rationale.
- C. **Moral Character Provisions:** Could prevent people from considering certain career pathways and provide licensing boards with broad discretion for credentialing.
- D. **Record Confidentiality:** Exemptions for serious/repeated offenses, and information made available to the public, can undermine confidentiality and record clearance processes.

2 The majority of postsecondary institutions and some employers in the studied states ask applicants about their criminal history and/or require background checks.

A. Postsecondary Education: Applicants to most four-year postsecondary institutions and some community colleges must answer questions about their criminal (and school discipline) history.

These questions must be answered with

- No opportunity to distinguish juvenile vs. adult offenses;
- No opportunity to distinguish the nature of their offenses or provide any context; and
- No knowledge of how the information will be used, including whether it's disqualifying.

B. Employment: Applicants to most employers don't need to answer questions about their criminal history, but many are made aware that they must pass a background check.

3 Significant exceptions, procedural challenges, and a lack of transparency and public education limit the effectiveness of existing record clearance mechanisms.

- A. Exceptions:** People who committed more serious delinquent offenses and/or repeated offenses—no matter how minor—may find themselves ineligible for record clearance.
- B. Procedural Challenges:** People must often petition the court for clearance, wait years to do so, pay hundreds of dollars of fees, and wade through burdensome administrative processes, and the outcome is subject to the broad discretion of the court.
- C. Awareness and Transparency:** People are rarely made aware of collateral consequences before they admit/plea, are unaware of record clearance eligibility or processes, and aren't sure about what information they need to report.

Recommendations

1 Establish overarching state law that prohibits inquiry into and consideration of juvenile adjudications in education and employment decisions.

- A. **Eliminate licensing and occupational restrictions** due to juvenile adjudications, including as part of “moral character” and related considerations.
- B. **Eliminate financial aid restrictions** for postsecondary education.
- C. Require all postsecondary institutions and employers and related institutions/organizations to **eliminate application questions related to criminal history** and to limit background checks only for serious/violent offenses and when necessary for specific job responsibilities.

2 Make all juvenile arrest and court records presumptively confidential at all times with limited exceptions for clearly designated public safety purposes.

- A. Restrict access to juvenile arrest, court, and other records to the public at large and for employment, licensing, admissions, and other similar purposes.
- B. Eliminate most automatic exceptions to confidentiality laws for certain offenses or people who commit repeated offenses.
- C. Ensure that all juvenile records, potentially excluding only the most serious offenses, are not reported to the Federal Bureau of Investigation for background check purposes.

3 Ensure that record clearance processes are universal, automatic, and free of charge.

- A. **Establish automatic, no-cost expungement of juvenile adjudications** within one to two years of juveniles reaching the age of majority, including for repeat juvenile offenses.
- B. If exceptions are made for serious, violent offenses, **states should still require automatically scheduled hearings** to review the possibility of sealing/expungement for these cases with clearly defined criteria.

4 Establish mechanisms to ensure that people in the juvenile justice system are informed about the consequences of an adjudication as well as their rights and obligations.

- A. Require and support juvenile courts and/or defense attorneys to **make youth (and their families) aware of potential collateral consequences before they agree to a plea deal.**
- B. Require and support state court administrative offices to **provide written guidance that summarizes the collateral consequences that follow people after case closure** and the process for sealing and expungement.
- C. Upon successful record clearance, ensure that affected individuals receive **written notification that includes a clear explanation of their rights and obligations.**

Collateral consequences reform should be part of broader improvement efforts focused on economic mobility, equity, and a developmental approach.

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Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth

LOCKED OUT: Improving Educational and Vocational Outcomes for Incarcerated Youth

November 2015

INTRODUCTION

For children across the political spectrum agree, all young people should have access to a high-quality public education. While the goal is the same, particular emphasis has been placed on ensuring that students receive instruction that prepares them for college and careers, and that schools are held accountable for meeting these goals.

There is growing concern of young people who avoid for a quality education in some ways—and whose education outcomes have recently challenged us—those incarcerated youth. Of the more than 100,000 youth who are incarcerated on any given day in the United States, nearly 50,000 are sentenced to state prisons, the majority of whom are youth of color. The majority of these youth are average and high-achieving second-grade levels behind their peers, more likely to have a disability than their peers, and have been suspended multiple times and/or expelled from their local schools.

In 1971, the majority of incarcerated youth were housed in state-run facilities, and of 200,000, almost 100,000 were in local jails. Over the past 40 years, as a result of state and local agencies and nonprofit organizations, an emphasis on providing and delivering educational and vocational services to incarcerated youth, and the proportion of youth incarcerated in privately or locally run facilities has grown. This has resulted in an increasingly complicated network of government and non-government agencies. This still leaves the key conditions of state, local, regional, and private systems more complex, chaotic, and uncoordinated services for incarcerated youth. See Figure 1.

Who are Incarcerated Youth?

Of the more than 100,000 youth who are incarcerated in any given day in the United States, nearly 50,000 are sentenced to state prisons, the majority of whom are youth of color. The majority of these youth are average and high-achieving second-grade levels behind their peers, more likely to have a disability than their peers, and have been suspended multiple times and/or expelled from their local schools.

Approximately 100,000 youth are incarcerated in state-run facilities, and of 200,000, almost 100,000 were in local jails. Over the past 40 years, as a result of state and local agencies and nonprofit organizations, an emphasis on providing and delivering educational and vocational services to incarcerated youth, and the proportion of youth incarcerated in privately or locally run facilities has grown.

Educational Data on Incarcerated Youth

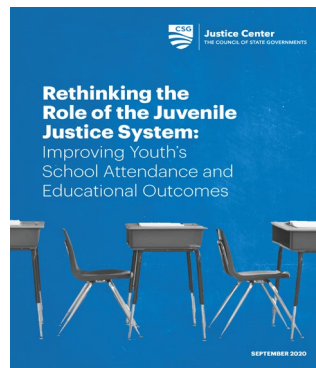
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*For the names of the authors and contributors, please see the backmatter of this report.

Laying the Groundwork: How States Can Improve Access to Continued Education for People in the Criminal Justice System



Rethinking the Role of the Juvenile Justice System: Improving Youth's School Attendance and Educational Outcomes



Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems

