



TOPICS IN THE NEWS:

Expungement (October 2021)

INTRODUCTION

It is estimated that over 70 million Americans have criminal records, [disproportionately the poor and minorities](#), perpetuating poverty and widening social disparity that impacts the convicted individual, their families and the communities in which they live. This month marks the passage of the last of the most recent package of bills intending to improve or alleviate endemic problems experienced by individuals carrying often decades old convictions that stigmatize and prevent full integration and participation in society.

One approach to easing the overwhelming challenges individuals with convictions face when trying to support themselves and gain access to basic needs is [expungement](#). A legal process, also known as expunction, ‘setting-aside a conviction’ or ‘restoration of rights’, it can remove specific felony or misdemeanor convictions from an individual’s public criminal record. Once successfully expunged, a previously convicted individual can legally state they have not been arrested or convicted of a given crime, or crimes, on applications for employment, educational opportunities, housing, and public benefits, circumventing the ‘collateral consequences’ of conviction and providing better prospects for economic and social stability. Far from a perfect system, expungement is not available for all types of crimes, and the court system and criminal justice authorities maintain a nonpublic record of the conviction. Additionally, the process of [pursuing expungement is not necessarily free, simple, or quick](#), nor is the outcome a guaranteed success.

A University of Michigan Law School study released in 2020 looked at data on Michigan residents with criminal convictions through 2014 that demonstrated the rate of successful expungement was ‘[discouragingly low](#)’ though the data reinforced some positive outcomes such as a low rate of recidivism and considerable increase in employment opportunities and wages. Across the country, the number of expungement-related laws passed since 2018 has grown dramatically as states look to improve the efficacy of these reforms. Michigan has passed more than a dozen public acts since 2018 designed to expand the types and number of convictions that are eligible as well as shorten the processing timeframe. Some acts, informally termed ‘clean slate’ law authorize [automatic setting aside](#) of certain convictions. [Eligible convictions related to driving records and/or suspensions](#) may clear automatically after Oct. 1, 2021. The process to expunge other criminal convictions that will eventually be eligible will not begin until after the law’s December 30, 2022, effective date.

Future developments in alleviating, or preventing the long-term effects of convictions and incarcerations in Michigan may be realized through new efforts to decriminalize the use of illegal natural psychedelics such as [psilocybin \(mushrooms\) and mescaline \(peyote\)](#), both listed as controlled substances under the Michigan

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Public Health [Code](#). Recently decriminalized in Ann Arbor by ordinance, the [scope and effectiveness of that ordinance is unclear](#), but potentially expungement reforms may continue to expand to encompass other criminal convictions.

In the meantime, multiple state government websites offer [Information on the deadlines, processes and access to forms](#), interactive free online tools to navigate the application process are available on [MichiganLegalHelp.org](#), and [local and regional legal aid programs](#) are in place for individuals needing assistance as well.

If you have difficulty accessing any of the resources linked in this publication, or would like additional information, please contact the Library of Michigan at 517-335-1477, or librarian@michigan.gov.

RESOURCES TO READ

[Whitmer signs remaining bills allowing expungement for most first-time drunken driving offenses](#), MLive, September 15, 2021

[Michigan's new expungement laws kick in Sunday. Here's how to get help](#), Detroit Free Press, April 9, 2021

[More than 70K MI driver's licenses become eligible again...](#), Detroit Free Press, October 1, 2021

[Michigan Lawmaker Introduces Psychedelics Decriminalization Bill](#), Forbes, September 13, 2021.

[Why Ann Arbor officials decided to decriminalize psychedelic mushrooms, plants](#), Ann Arbor News, Sept. 22, 2020

[Automatic Clearing of Records, National Conference of State Legislatures](#), July 19, 2021

[Marijuana legalization and expungement in early 2021](#), Collateral Consequences of Criminal Conviction and Restoration of Rights, Spring 2021

[Burton AL, Cullen FT, Pickett JT, Burton VS, Thielo AJ, "Beyond the eternal criminal record: Public support for expungement", *Criminal Public Policy*, 2021; v20 p123-151.](#)

[Safe & Just Michigan: Michigan's Clean Slate Legislation FAQ](#) (State Bar of Michigan)

DATA TO STUDY

[Dozens of new expungement laws already enacted in 2021](#), Collateral Consequences of Criminal Conviction and Restoration of Rights, July 7, 2021

[Criminal Records and Reentry Search by State Law](#) (National Conference of State Legislatures)

[50-State Comparison: Expungement, Sealing & Other Record Relief](#)

[Clean slate clearinghouse](#)

[Just Facts: As Many Americans Have Criminal Records as College Diplomas](#), Brennan Center for Justice, November 17, 2015