

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

To aid states, The Council of State Governments (CSG) Justice Center conducted a first-of-its-kind examination of state statutory and administrative barriers that affect people who have been adjudicated of an offense in juvenile court. With a specific focus on education- and employment-related collateral consequences, the study examined those consequences that follow young people after the conclusion of their juvenile justice system involvement.

Analyses and findings are based upon an examination of laws, policies, and hiring and postsecondary admissions practices in 12 states: **California, Florida, Illinois, Iowa, New York, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Vermont, and Washington.**

***Key Finding 1:** State statutes appear to be designed to limit the imposition of collateral consequences based on a juvenile adjudication, but these provisions may not achieve their intended purpose in practice.*

A. Inexact Language-

- Inconsistent statutory language to indicate how collateral consequences are triggered.
- Likely unintentional, but vague enough that it can be interpreted as pertaining to juvenile adjudications.

B. Explicit Exceptions –

- Legal barriers explicitly as a result of adjudications, i.e. restrictions on law enforcement appointments, occupations in industries involving health care, childcare/education, care of vulnerable adults.
- Some states restrict people with juvenile adjudications from receiving postsecondary financial aid.

C. Good Moral Character Provisions-

- Vague and lack criteria for how such determinations are made.
- Some of the studied states expressly prohibit licensing boards from considering juvenile adjudications when they evaluate a person's "moral character."

D. Record Confidentiality-

- Most juvenile records are confidential by default, records for youth who commit serious offenses and/or commit repeated offenses are often exempt- available to the same degree as adult records.
- In a few states, information about juvenile adjudications, regardless of offense, is even available to the public. This information can be used by a variety of entities to make education, employment, or licensing decisions.

Key Finding 2: *The majority of public and private postsecondary institutions and some employers in the studied states ask applicants about their criminal history and/or require background checks. Almost none of the states make distinctions between juvenile adjudications and adult convictions.*

A. Postsecondary Education-

- A quarter of the largest community colleges require this disclosure, the majority of all public universities in the studied states require it as do almost 80 percent of the largest private institutions.
- Little to no relationship between prior criminal history and campus behavior.

B. Employment-

- Over a quarter of the largest private employers in the studied states and almost half of state government applications require a criminal background check.
- Employers are more reluctant to interview and hire people who have been convicted of a crime—including individuals whose only offenses are juvenile adjudications—compared to similar peers without a record.

Key Finding 3: *The studied states have established relief mechanisms to mitigate collateral consequences that result from juvenile adjudications, but significant exceptions, procedural challenges, and a lack of transparency and public education limit their effectiveness.*

A. Exceptions-

- record clearance is not available to people adjudicated of serious offenses.

- In some of the studied states, people who committed multiple juvenile offenses—no matter how minor the offenses—are not eligible for record clearance.

B. Procedural Challenges- :

- In many states, people who committed any offense, or sometimes only serious offenses, must proactively petition the court for a record clearance hearing.
- Requires waiting period of 2-5 years even when automatic.

C. Awareness and Transparency-

- Most of the studied states do not require in statute that juvenile courts or public defenders explain the collateral consequences of an adjudication.

Recommendation 1: Establish overarching state law that clearly distinguishes juvenile adjudications from criminal convictions and that prohibits inquiry into and consideration of adjudications in education and employment decisions.

- Eliminate licensing and occupational restrictions due to juvenile adjudications, including as part of “moral character” and related considerations.
- Eliminate financial restrictions for postsecondary education.
- Require all public and private postsecondary institutions and employers and related institutions/organizations eliminate application questions related to criminal history generally.

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

- Restrict access to juvenile arrest, court, and other records to the public at large and for employment, licensing, admissions, and other similar purposes.
- Eliminate most automatic exceptions to confidentiality law for certain offenses or people who commit repeated offenses.

- 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.

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

- Establish automatic, no-cost expungement of juvenile adjudications within one to two years of juveniles reaching the age of majority, including for repeat juvenile offenders.
- 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 and strive to reduce the associated administrative, time, and cost burdens for affected individuals.

Recommendation 4: Establish mechanisms to ensure that people who become involved with the juvenile justice system are informed about the consequences of an adjudication as well as their rights and obligations.

- 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.
- Require and support state court administrative offices to develop and disseminate brief written guidance that summarizes the collateral consequences that follow people after case closure as well as eligibility and the process for sealing and expungement.
- Upon successful record clearance, ensure that affected individuals receive written notification that includes a clear explanation of their rights and obligations in terms of disclosure of their offenses as well as a copy of their records.