



MEDICAL LEGAL  
PARTNERSHIP  
*of southern Illinois*

# EXPUNGEMENT & SEALING OF ILLINOIS CRIMINAL RECORDS



*Breaking Barriers to Justice*



# WHY THIS WORK IS IMPORTANT

- One in three Americans have been arrested by age 23, resulting in many job applicants having criminal records.
- Recidivism rates for those with full-time employment is 15.7% compared to 47% for those without employment.
- Collateral consequences\* (legal and regulatory sanctions and restrictions) for past arrests and convictions results in fundamental barriers to life opportunities:
  - Employment
  - Housing
  - Education
  - Public Benefits
  - Parental Rights
  - Licensing
  - Debt

\* Source: <https://niccc.csgjusticecenter.org>



# RED FLAG

- Employment
  - Patient has been denied employment or promotion due to criminal record.
- Housing
  - Patient has been denied private or public housing due to criminal record.
- Licensing
  - Patient has been denied a professional license due to a criminal record.



## ACCESS TO EXPUNGEMENT AND SEALING

- If a record has been sealed, then most employers are not permitted to have access to the record.
- In limited circumstances, some employers, like the government, a hospital, or a school, may have access to a sealed record.



# EXPUNGEMENT VS. SEALING

## ○ Expungement

- To physically destroy the records or return them to patient and to remove their name from the public record.

## ○ Sealing

- To physically and electronically maintain the records... but to make the records unavailable without a court order and to remove patient's name from the public record.



# WHAT CAN BE EXPUNGED?

- It is the sentence that matters, not the finding of guilt.
- **Non-convictions** which means:
  1. Arrests where there is no court case.
  2. Acquittal, dismissal
  3. Supervision successfully completed
  4. Qualified probation successfully completed



# WHAT CANNOT BE EXPUNGED?

- Civil cases, including orders of protection
- Supervision for sex offenses against minors, Driving Under the Influence, Reckless driving
- Convictions



# WHAT CAN BE SEALED?

- **It is the conviction that matters, not the charge.**
- Everything that can be Expunged.
- Misdemeanor convictions.
- Felony convictions.





# EXCLUDED OFFENSES

The following misdemeanor and felony convictions **CANNOT** be sealed:



- Domestic Battery
- Violating an Order of Protection
- Battery of an unborn child
- Patronizing or Soliciting a sex worker, Pimping.
- Criminal sexual abuse and most sex offenses.
- Felony Public Indecency (misdemeanor can be sealed)
- Driving Under the Influence
- Reckless Driving (except youthful offender exception)
- Any crimes against animals
- Convictions requiring registration under the
  - Arsonist Registration Act
  - Violent Offender Against Youth Registration Act
  - Sex Offender Registration Act

# WAITING PERIOD

## Expungement

- Acquittals, Dismissals:  
NO waiting period
- Supervision/Special Probation:  
2-5 years
- From completion date of each sentence

## Sealment

- Supervision – **2 years**
- Convictions – **3 years**
- From completion date of last sentence



## EXPUNGEMENTS AND SEALMENTS ARE DISCRETIONARY

- Even if record is eligible to be expunged or sealed, whether to grant relief is always within the court's discretion.
- There is **NO RIGHT** to an expungement or sealment.



# CANNABIS OFFENSES: GENERAL

- With marijuana legalization, many cannabis crimes are now eligible to be expunged & vacated
  - This includes expunging convictions!
- The following are eligible:
  - Cannabis Possession up to 500 grams resulting in a Fine, Misdemeanor, or Class 4 Felony
  - Cannabis Manufacture up to 30 grams resulting in a Misdemeanor or Class 4 Felony
- May be more difficult if the patient had a Section 7 Enhancement meaning it was a “violent crime”



# MINOR CANNABIS OFFENSES

- Minor Cannabis Offense = cannabis offense of not more than 30 grams, not related to a violent crime, and not with a Section 7 Enhancement
  - Does not include paraphernalia charges
- All Minor Cannabis Offenses are supposed to be automatically expunged
  - But this can take a lot of time!
- A patient can request the expungement and vacation of these charges, so they don't have to wait for it to be done automatically



# QUESTIONS



1. What is required of your patient?
  1. Fingerprint background check (fee).
  2. Court appearance (testimony).
  3. Drug test for felony drug convictions (fee).
  4. No pending criminal cases in ANY Jurisdiction.
  5. Patience.
2. How long will it take to clear the record?
  1. At least 1 year.
3. How much does it cost to clear a record?
  1. All costs are waived other than cost for background check or drug test if represented by LOLLA.
4. Will clearing a record mean the return of a driver's license?
  1. No.
5. Can LOLLA assist with clearing a federal criminal record?
  1. No. There is no systematic way to seal a federal criminal record.
6. What if the Patient does not qualify to clear their record?
  1. There are other alternatives for employment: Certificate of Good Conduct and Healthcare Waiver.





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