

## Current Status of Expungement in Kentucky:

- » 2016's HB40 permitted certain individuals with eligible non-violent offenses to apply to have their records expunged after 5 years. (KRS 431.073)
- » Recent studies show expungement leads to a marked improvement in job prospects, income, and levels of civic engagement.
- » High fees, a lack of awareness of eligibility, or lack of access to legal services lead to less than 10% of those eligible having their records expunged.
- » HB 569 (Rep. Bratcher) and SB 218 (Sen. Storm) seek to automate the current expungement process. Neither bill makes any changes to who is eligible to have their records expunged.
- » Goodwill Industries of Kentucky is working with the Clean Slate Initiative, and a coalition of like-minded organizations, to advance this common-sense legislation.

## Why Automate Expungement:

- » This is about the economy and Kentucky's workforce participation rate. As Kentucky looks to reform its tax system, policymakers should be encouraged to look for as many ways as possible to broaden the tax base and available workforce.
  - » As of February 2023 the St. Louis Federal Reserve shows Kentucky's labor force participation rate is 57.5%, or 46th out of 51. This trails the average of the surrounding 7 states at 61.92% with only West Virginia having a lower rate.
- » Considerable social and employment stigma exists for those with criminal records, regardless of whether they ultimately resulted in a conviction or are related to the particular position someone is applying for.
- » Reducing the barriers to expungement improves employability, increases wages, and broadens the tax base.
  - » A US Chamber report showed within three years of a expungement average employment rates went from 75% to approximately 85%, and earnings grew by a third, from \$4000 below baseline to almost \$2000 above compared to peers two years post expungement
  - » A 2019 University of Michigan study showed an average wage increase of 23% over the first year, rising slightly to 25% in the second year.
- » There is little public safety or economic interest in the continued barriers to civic participation that a criminal record presents. In fact, expungement contributes to a decrease in recidivism.
  - » The same University of Michigan study shows individuals who've had their records expunged reoffend at lower rates lower than the general population even though they tend to come from demographics more likely to offend in general.
- » HB 569 and SB 218 will maintain safeguard for public safety present in the current expungement process. Law enforcement and the courts would still have access to criminal records for specific purposes, including the consideration of future offenses.
- » Automation would make the system fair. The current expungement system requires a petition and additional court fees. The system can be labor intensive, complex, and lengthy without the aid of paid legal counsel. Automation would provide every Kentuckian the same opportunity for a fresh start, regardless of individual wealth.
  - » Judges may currently waive the fees at their discretion and do so often. However, that is done unevenly from court to court, establishing different levels of access to the system dependent upon where you live and which judge you draw on the docket.
  - » In addition to reducing the red-tape burden on filers, automation also reduces administrative burdens on the court.

## Studies of Interest:

Prescott, J.J. "Expungement of Criminal Convictions: An Empirical Study." Sonja B. Starr, co-author. Harv. L. Rev. 133, no. 8 (2020): 2460-555.

US Chamber of Commerce (2021, August 1). THE BUSINESS CASE FOR CRIMINAL JUSTICE REFORM: SECOND CHANCE HIRING. Uschamber.com.  
[https://www.uschamber.com/assets/archived/images/uscc\\_business\\_case\\_for\\_cj-second\\_chance\\_hiring\\_report\\_aug2021.pdf](https://www.uschamber.com/assets/archived/images/uscc_business_case_for_cj-second_chance_hiring_report_aug2021.pdf)

Jeffrey Selbin, Justin McCrary, and Joshua Epstein, Unmarked? Criminal Record Clearing and Employment Outcomes, 108 J. CRIM. L. & CRIMINOLOGY 1 (2018).  
<https://scholarlycommons.law.northwestern.edu/jclc/vol108/iss1/>

Prescott, J.J. "Expungement of Criminal Convictions: An Empirical Study." Sonja B. Starr, co-author. Harv. L. Rev. 133, no. 8 (2020): 2460-555.

Colleen Chien, Zuyan Huang, Jacob Kuykendall, and Katie Rabago, *The Washington State Second Chance Expungement Gap* (2020),  
Available at: <https://digitalcommons.law.scu.edu/facpubs/971>

St. Louis Federal Reserve Bank. Labor Force Participation Rate for Kentucky.  
<https://fred.stlouisfed.org/>.  
<https://fred.stlouisfed.org/series/LBSSA21>

St. Louis Federal Reserve Bank. Labor Force Participation Rate for Kentucky and Surrounding States. <https://fred.stlouisfed.org/>.  
<https://fred.stlouisfed.org/graph/?id=LBSNSA17,LBSNSA18,LBSNSA21,LBSNSA29,LBSNSA39,LBSNSA47,LBSNSA51,LBSNSA54>

According to March 2023 data from the Bureau of Labor Statistics current Labor Force participation rate is 2,042,066 for 3,550,017 eligible Kentuckians, to increase from 57.5 to 61.9 would be a 4.4% increase, for a total of 2,198,032.  
[https://data.bls.gov/timeseries/LASST2100000000000006?amp%253bdata\\_tool=XGtable&output\\_view=data&include\\_graphs=true](https://data.bls.gov/timeseries/LASST2100000000000006?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true)

Smith, C. M. (2023, March 14). The Pathway to Prosperity: How Clean Slate Legislation Enhances Public Safety and Stimulates the Economy. <https://www.rstreet.org/>.  
<https://www.rstreet.org/research/the-pathway-to-prosperity-how-clean-slate-legislation-enhances-public-safety-and-stimulates-the-economy/>

Korzenik, J. D. (2021). Untapped talent: How second chance hiring works for your business and the community. HarperCollins Leadership.

Paulk, P. D., MSW, MBA (2015, May 1). The Johns Hopkins Hospital Success in Hiring Ex-Offenders [Plenary Presentation].  
[https://www.bgcheckinfo.org/sites/default/files/public/5thMtg\\_1-0c-Plenary\\_Pamela\\_Paulk\\_Presentation.pdf](https://www.bgcheckinfo.org/sites/default/files/public/5thMtg_1-0c-Plenary_Pamela_Paulk_Presentation.pdf)