



DUE PROCESS

INSTITUTE

Support the Clean Slate Act, S. 1380 and H.R. 2864

It is estimated that some 70 million Americans have a criminal record. This means that as many as one in three people face obstacles in securing a job or housing. “[R]esearch [published](#) by University of Michigan shows that minor felony records have large negative effects on employer callbacks in response to job applications,” [write Eaton CEO Craig Arnold and JPMorgan Chase CEO Jamie Dimon](#). “It’s not surprising that formerly incarcerated people experienced a [27%](#) unemployment rate in 2018, the highest rate in our nation’s history.” Due to a number of outdated “tough on crime” policies that continue to burden those with a criminal record long after their matter has resolved with the legal system, we are setting people up to fail when we should be providing opportunities and support to help them succeed—for the betterment of themselves, their families, their communities, and our society at large.

Introduced by Sens. Bob Casey (D-PA) and Joni Ernst (R-IA) and Reps. Lisa Blunt Rochester (D-DE) and Guy Reschenthaler (R-PA), the Clean Slate Act, S. 1380 and H.R. 2864, offers a path for individuals with certain federal criminal records an opportunity for a second chance. The Clean Slate Act would provide for the automatic sealing of records for simple possession of a controlled substance under 21 U.S.C. § 844 or records for any federal nonviolent marijuana offense—one year after someone has completed his or her sentence.

The Clean Slate Act also provides a petition process for the sealing of records for certain nonviolent offenses. A person who has been convicted of two or fewer nonviolent offenses can petition a court to seal the record after completing the terms of any sentence. Individuals who have been convicted for treason, terrorism, access and transmission of sensitive information, national security related offenses, and sex offenses would not be eligible for record sealing. Eligible individuals would be notified of their right to file a petition to seal their record; notification would also be sent to the prosecutor and any victim of the individual’s actions. A hearing would be required unless the prosecutor waived. If the prosecutor challenges the petition, the petitioner would be allowed access to a public defender and the burden falls to the government to prove that the sealing of the record is not warranted. Although a record would be sealed and not visible to the public or to prospective employers, law enforcement would still have access to the sealed record. In addition, prospective employers would be given immunity from civil liability under the Clean Slate Act.

Some states—including Pennsylvania and Utah—have already passed “Clean Slate” legislation to automatically seal records while most other states have some form of record sealing or expungement laws. Federal law is extraordinarily lacking in this area. **Due Process Institute supports the Clean Slate Act, S. 1380 and H.R. 2864, and urges senators and representatives to co-sponsor and support this legislation.** April is “Second Chance Month.” We encourage Congress to take this opportunity to explore ways to provide second chance opportunities to the millions of people who need a “clean slate” to move forward with their lives.

Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in the criminal legal system. If you have any questions or concerns, please contact Director, Rule of Law Initiatives, Jason Pye at jason@idueprocess.org.