

Coming Home During COVID

Shriver
Center on
Poverty
Law

Housing Protections for Justice-Involved
People in Illinois

June 2nd, 2020

We are all part of the movement for housing and racial justice.

- Henry Shah, Shriver Center on Poverty Law
- Willette Benford
- David Heinze, Cabrini Green Legal Aid

Thank you

- To the people inside
- To you, for learning more today
- Funders who make this work possible: Chicago Community Trust, Open Society Foundation, Butler Family Foundation
- David & Willette for sharing today

Why are we here today?

- Understand housing protections for people with arrest and conviction records
- Build awareness of different resources and networks that support returning citizens
- Empower people with records to access housing

**Nothing in this presentation is
legal advice.**

Creating a movement led by directly-impacted people

Willette Benford

Willette Benford

Leadership inside and outside



How did I become a leader in this movement?

- Sentenced to 50 years for a survival crime
- First person in Illinois to benefit from the 2-1401 Amendment
 - Domestic violence is now a mitigating factor in determining length of sentence
- Granted immediate release from IDOC in 2019 after 24 years inside
- Now: A passionate social justice advocate for people marginalized and oppressed by unjust laws and systems

Housing protections for people with records

Henry Shah, Shriver Center on Poverty Law

What kinds of protections exist for people with records?

- Depends on area: Where do you live? Where are you looking for housing?
- Depends on type of record: Are we talking about arrests, convictions, or something else?
- Depends on timing: When is the issue happening—before, during, or after you have housing?
- Depends on the issue: Are there disability, domestic violence, or other issues at play?

What specific subject areas are we covering today?

- Protections for all people with records
- Protections in public and subsidized housing
- Protections related to domestic violence
- Protections related to disability status

Protections for all people with records

Federal protections for all people

- The federal government recognizes that the use of criminal history affects Black, Latino, and Native people disproportionately
- Arrests aren't a reliable way to tell if someone will be a good tenant
- Convictions should be evaluated on a case-by-case basis
 - So, no blanket bans: i.e. “no felons!” “no criminal history!”
- **Bottom line:** Every record has a context based on an individual's story.

Illinois protections for all people

- Housing is a Human Rights Act: It's now a state civil rights violation to deny housing for specific types of record.
 - These records include: any arrest that didn't lead to a finding of guilt, juvenile records, any record that has been ordered expunged, sealed, or impounded
- Cannabis legalization: many more people than ever before are eligible for expungement or sealing. More on this later.
 - This means that many arrest and convictions might no longer be part of a records check at all!

Local protections for all people

- Cook County: Just Housing Amendment
 - No use of convictions more than three years old of any type.*
 - No use of any arrests, juvenile records, deferral/diversion program participation, expunged/sealed records.
 - Providers need to follow a transparent, individualized process if they want to use conviction history more than three years old.
- Champaign: local law
 - Can only screen for specific convictions within past 5 years*
- Urbana: local law
 - Can't discriminate on basis of an arrest or conviction record
- * Local laws have exceptions for federal/state requirements *
 - Like for people on lifelong sex offender registries, or for people who are banned from Public or subsidized housing due to federal law

Protections in public and subsidized housing

What kind of housing is available?

- We're talking about any program with federal \$: Housing Choice Voucher or "Section 8," public housing units
- People can apply for new housing units or be added to existing leases
 - Unit availability varies a lot throughout our state
 - Local housing authorities have a lot of discretion. We'll talk about this now.

The federal government requires denial in only very specific circumstances.

- Local housing authorities must deny:
 - People convicted of manufacturing methamphetamine on federally assisted property
 - People required to register because of past sex offenses for the rest of their lives
- Local housing authorities must deny if:
 - The applicant has been evicted from federally subsidized housing in the past three years for drug-related activity and hasn't shown that the circumstances leading to the eviction don't exist anymore.

Local admission policies vary widely throughout Illinois.

- Some housing authorities are very restrictive. Some have much looser policies. These policies are in flux during COVID.
- Everyone should get a chance to explain their record.
- More restrictive example: Springfield
 - Qualified applicants for housing can't have a misdemeanor on their record in past three years, any felony activity in last ten years.
- Less restrictive example: Cook County
 - Doesn't use anything, including convictions, more than 3 years old unless they are required by federal government to do so.

Protections related to domestic violence

Framing the conversation

- We're not just talking about women.
 - We're talking about all survivors of domestic violence, sexual assault, dating violence, and stalking.
- We're not just talking about physical violence.
 - We're talking about patterns of power and control.

Federal Housing Rights of Survivors of Violence

Violence Against Women Act – protects victims of domestic violence, sexual assault, dating violence, and stalking who live in federally subsidized housing:

- Cannot be denied admission, be evicted, or have their assistance terminated because of the violence committed against them;
- Must get a notice of housing rights under VAWA;
- Can request that an abuser be removed from the lease and housing, where applicable;
- Have a right to confidentiality;
- Can seek an emergency transfer to other federally subsidized housing in order to be safe.

The Illinois Safe Homes Act

- Tenants experiencing domestic violence, sexual assault, dating violence, or stalking can ask their landlords for an emergency lock-change or can end their leases early due to a credible imminent threat of violence against them at their home;
- Sexual assault victims can also seek a lock change or end their lease early if a sexual assault occurred at their home even if there's no ongoing threat.
- *For sample documents, go to www.povertylaw.org*

Protections related to disability status

Reasonable accommodation

- Persons with disabilities may request a reasonable accommodation.
- Includes persons who are **recovering from addiction** and have successfully completed or are undergoing substance abuse treatment.
 - *But not* **current users** of illegal substances
 - *But not* persons who are a **direct threat to health and safety of others**
 - *But not* persons whose tenancy would result in **substantial physical damage to the property of others**

Records relief: sealing & expungement

David Heinze, Cabrini Green Legal Aid



Understanding the Impact of Criminal Records and Navigating Legal Relief in Illinois:



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What is Sealing and Expungement?

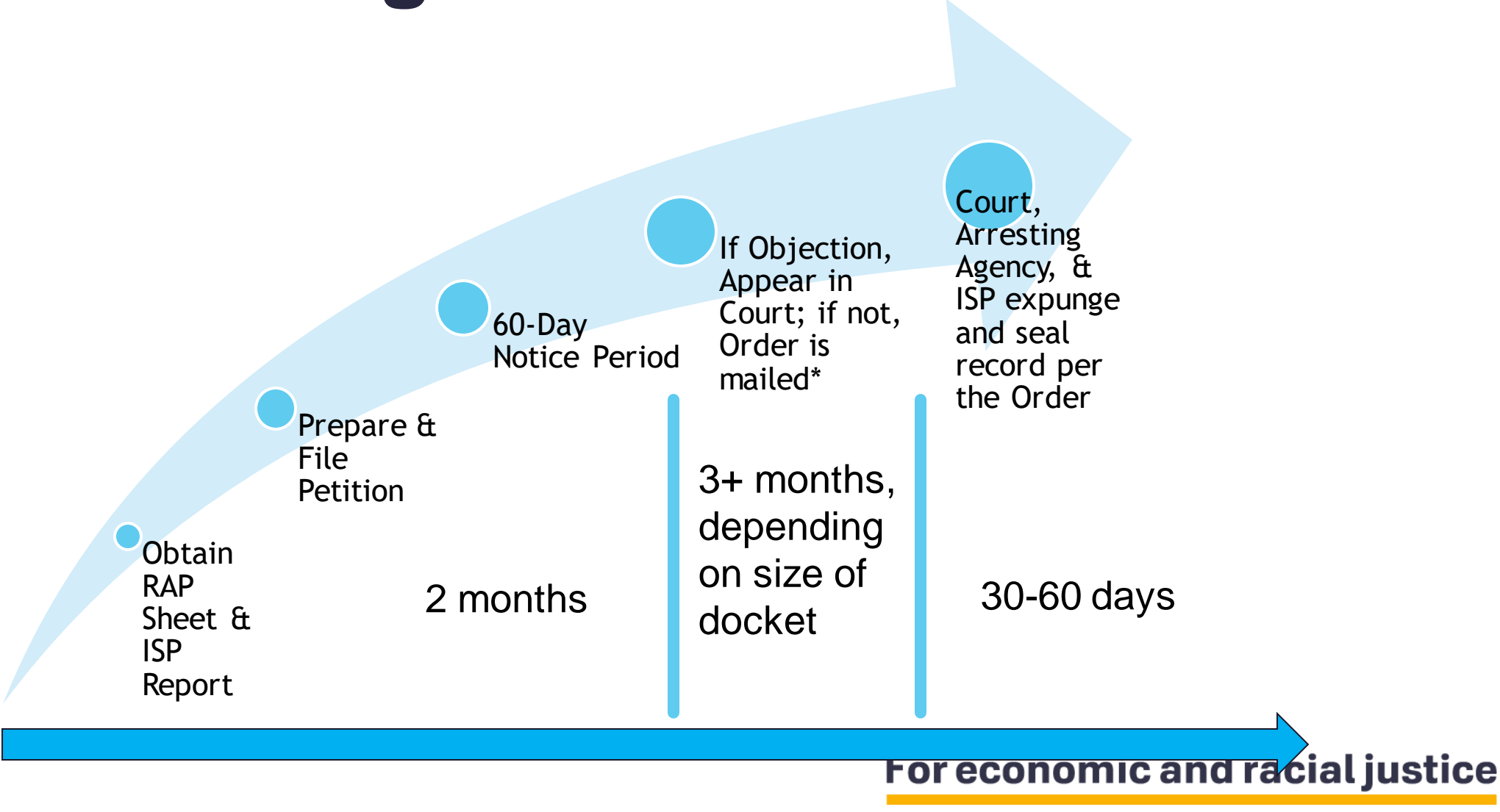
Sealing and Expungement are two types of criminal records relief created by the state legislature which allow a person to ask the court to ***remove all records of an arrest or criminal case from public view.***

Expungement is available for arrests and criminal cases that do not result in a conviction, with some exceptions depending on the charge.

Sealing is available for arrests and criminal cases that result in a conviction, with some exceptions depending on the charge.

The main practical difference between the two is that sealed felony convictions will still be visible to employers authorized by state law to conduct fingerprint-based background checks.

Record Clearing in Illinois: The Process



Do I qualify For Sealing and Expungement?

Ineligible convictions:

- Domestic Battery, Violations of Order of Protections, Violations of Stalking No-Contact Orders
- Sexual Offenses (excluding prostitution and misdemeanor public indecency)
- Violations of the Humane Care for Animals Act (Animal Cruelty, Dog Fighting)
- DUI, Reckless Driving

Three Year Waiting Period from Date of Last Conviction

Normally, you are required to wait three years from the date of completion of your most recent sentence to apply to seal your records. But there is an important exception to this rule...

Do I qualify For Sealing and Expungement?

If you earn a high school diploma, GED, college degree, vocational certification, or career certificate **WHILE YOU ARE SERVING YOUR MOST RECENT SENTENCE**, you may apply to seal immediately after completing that sentence.

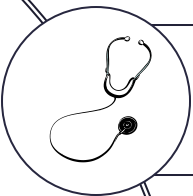



Date of Sentence
Sentence

Date of Completion of

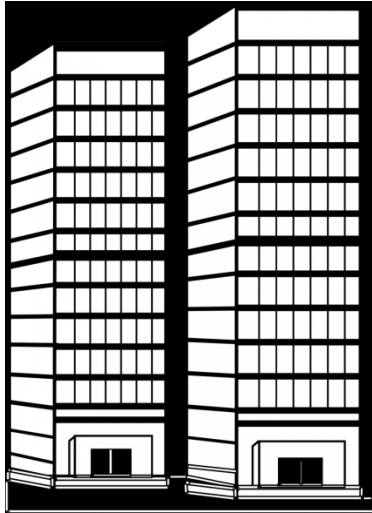


The degree, diploma, or certificate must be earned during this time period

What if a person doesn't qualify?

-  Health Care Worker Waivers
-  Certificates of Good Conduct
-  Certificates of Relief from Disability
-  Clemency

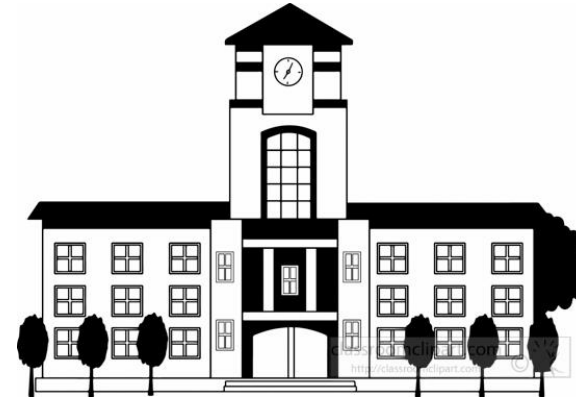
Why is Sealing and Expungement Important?



Nearly 9 in 10 employers use background checks in hiring



An estimated 4 in 5 landlords use background checks on prospective tenants



More than 3 in 5 colleges and universities use background checks in admissions

Who Can Help Me Seal and Expunge My Record?



Do You Live in Cook County?

- **Cabrini Green Legal Aid Help Desk**
- **Chicago Legal Clinic and Legal Aid Chicago**

Do You Live in Central or Northern Illinois (but not in Cook County)?

- **Prairie State Legal Services**
pslegal.org / 815-965-2134

Do You Live in Central or Southern Illinois?

- **Land of Lincoln Legal Aid** **For economic and racial justice**
lincolnlegal.org / 877-342-7891

What Are Some Things I Should Start Doing Now?

- Get your ISP Report

Call (815) 740-5160

- Get a degree, diploma, vocational certification, or career certificate if you're on Mandatory Supervised Release
- Start gathering evidence of rehabilitation

Putting the pieces together

Henry Shah, Shriver Center on Poverty Law

Where can I go for help to know and enforce my rights better?

- Your local legal services provider can help.
 - Your provider depends on where you are.
- If you live in Cook County, Cabrini Green Legal Aid can help you expunge, seal your record.
- Your local FHIP (Fair Housing Initiatives Program) provider can help.
 - [Use this link](#)

CASE STUDY: YUNA

A former County employee and youth advocate, Yuna is also a survivor of domestic violence. The domestic violence lasted over a period of 5 years. One particularly severe episode resulted in her hospitalization for third degree burns. Yuna's abuser was dependent on heroin and prescription opioids, and often pressured Yuna to use drugs. After her discharge, she struggled with depression, PTSD and drug dependency which led to her arrest and eventual plea to possession of prescription painkillers in 2017. With a lot of support, she eventually left her abuser and lived in a shelter for a period of time. She applied for an apartment but was denied because of the landlord's zero tolerance policy for drug-related convictions.

CASE STUDY: TONY

Tony is currently homeless and has been living on the streets since 2015. He has several arrests on his record spanning the last 5 years for offenses, such as loitering, disorderly conduct, and lying down in public. None of these arrests have resulted in a conviction. Tony also receives supportive services and has a case manager from the county health department. He applies for housing and receives a denial letter listing his past arrests.

CASE STUDY: ALBERTO

Alberto just got out of prison right after the pandemic started. He served 11 out of 15 years for a conviction related to drug possession and distribution. While incarcerated, he completed a college degree with a specialization in addiction counseling. Alberto was also a mentor to younger people inside who suffered from drug dependency. He's been placed on electronic monitoring for 90 days following his release. Alberto has family living in both Springfield and Chicago public housing. He called you, his friend, for advice.

Thank you for your attention.

Let's talk. What questions do you have?