

SPRC Sparks

By Eric J. Ellman • Sep 28, 2022

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Welcome back, here's what's in this edition of SPRC Sparks:

Three New Reports from the Collateral Consequences Resource Center:

1. Criminal Record "Reforms" in 2021;
2. California poised to enact significant expansion of record clearing to cover most felonies; and
3. A closer look at racial disparities in California's automatic record clearing

1. Criminal Record "Reforms" in 2021

The CCRC has recently issued three new reports. First, [From Reentry to Reintegration: Criminal Record Reforms in 2021](#). This report highlights key developments in reintegration reforms from the past year. It documents

that **40 states, the District of Columbia, and the federal government enacted 151 legislative bills and took a number of additional executive actions** to restore rights and opportunities to people with an arrest or conviction history. As in past years, a majority of these new laws involved individual record clearing: All told, an astonishing **36 states enacted 92 separate laws that revise, supplement or limit public access to individual criminal records** to reduce or eliminate barriers to opportunity. Most of these laws established or expanded laws authorizing expungement, sealing, or set-aside of convictions or arrest records. Several states enacted judicial record clearing laws for the very first time, and a number of states authorized "clean slate" automatic clearing. Executive pardoning was revived in several states where it had been dormant for years.

Also,

many of the new laws enacted general provisions limiting considering of criminal record in economic settings: **17 states enacted 26 new laws regulating employment and occupational licensing**, and more than a dozen other states enacted laws facilitating access to housing, education, driver's licenses, and public benefits.

2. California poised to enact significant expansion of record clearing to cover most felonies

A [CCRC summary on California record clearing](#) was recently published.

When signed into law, Senate Bill 731 will place California at the forefront of record clearing nationwide. It would expand automatic record relief to all felony non-convictions since January 1, 1973, six years after the date of arrest. California law currently excludes felony arrests from eligibility for automatic relief if the charge is serious enough to potentially result in incarceration at a state prison. Other felony non-convictions remain eligible for automatic relief after three years unless the charge was punishable by eight years' incarceration or more in a county jail, for which the new six-year wait period applies.

SB 731 also expands eligibility for automatic relief to persons convicted of a felony and sentenced to probation on or after January 1, 2005, if they violated probation but later completed all terms of supervision. Current law excludes from relief anyone who violated their probation. The new law requires a four-year conviction-free period after completion of the sentence. This expansion of automatic relief does not apply to certain serious and violent felonies, and ones for which the person is required to register as a sex offender. As noted below, all but the last-mentioned category will now be eligible for relief by petition.

3. A closer look at racial disparities in California's automatic record clearing



A [CCRC report takes a closer look at racial disparities](#) in California's automatic record clearing. This

[study](#), by Alyssa Mooney, Alissa Skog, and Amy Lerman, and published in Law & Society Review, examined recent legislative changes to criminal record relief laws in California, one of the first states to automate relief. The study assessed the equity of California's existing automatic record relief laws by examining the share of people with criminal records who are presently eligible for automatic record clearing, and variations across racial and ethnic groups.

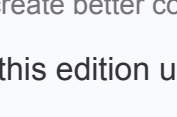
The authors found that 20% of all those convicted of any offense between 2000 and 2016 were eligible for automatic relief. An additional 33% were eligible to petition the court for relief, and 47% were ineligible for any relief at all by virtue of the nature of their conviction or terms of their sentence. But the study also found eligibility was lowest among Black people, with only 15% qualifying for automatic relief, and 29% for petition-based relief. Meanwhile, 21% of White people with convictions qualify for automatic relief, and another 35% are eligible by petition.

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