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# How to Eliminate or Minimize the Negative Impact of Criminal Records

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# Statutory Remedies

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## Anticipate Negative Impact of Record:

- **Advisory Opinions** – figure out if people can get a license or certificate *before* they put time/money into getting that license/certificate.

## Remove Record from Public View:

- **Expungement** – makes it so only a few governmental agencies can view a person's arrest record.
- **Sealing** – makes it so only governmental agencies can see a person's arrest & conviction record.
- **Executive Clemency** – or Governor granted pardons, allow for the expunging of any offense, even if the offense would not otherwise be eligible for expungement or sealing.

**Decrease Negative Impact of Record:** allows employers to overlook policies, laws or codes that would not allow them to hire people with specific offenses on their record otherwise.

- **Certificate of Relief from Disabilities** – helps people get one of 27 specific occupational licenses (i.e. barbers) that current laws prevent them from getting because of their criminal record.
- **Certificate of Good Conduct** – helps people get occupational licenses or jobs that current laws would normally prevent them from getting because of their criminal record.
- **Healthcare Waiver** – helps people get jobs in the healthcare sector that they would normally not be able to get because of their record.



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# Determine Your Criminal History:

## Using Criminal History Reports and Certified Dispositions

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### What a Criminal Record Is:

Any time a person is arrested by any law enforcement agency, that arrest and the outcome of those arrests are recorded in a “criminal record” that is permanent unless steps are taken to change it or remove arrests and/or convictions from that record from public view (expungement/sealing). Criminal records can be released in criminal history reports or Certified Dispositions.

### “Criminal History Reports” (aka rap sheets):

- If you want a report that shows **all Chicago arrests and Chicago convictions only** -pick up this report in 5 days after: 1) showing a valid State ID or Driver’s License; 2) paying \$16; and 3) giving your fingerprint anytime between **8:30am and noon**, Mon. – Fri. at Chicago Police Department at 3510 S. Michigan (312) 745-5509.
- If you want a report that shows **only convictions within Illinois** (does not show arrests) -contact **Illinois State Police (815) 740-5160** to get report.

**“Certified Dispositions” – show what happened from arrest to conviction only in the one case referenced** –pick these up from any of the clerks in the county where your case took place anytime Mon.-Fri. from 9:00am-4:30pm (i.e. if your case took place in Will County, you must contact Will County to get your certified disposition for that case; versus if a case took place in Maywood (Cook), you can go to any clerk in Cook County to get that certified disposition –use 311 to get the contact info you need).

**Why Its Important to Get Your Record:** Be sure your record is accurate.

Issues like clerical errors, identity theft can make records inaccurate) – if your record is inaccurate, take proof of what the actual record should say to the “Access & Review” department of the Local Police Department and Clerk of the Court where case held to have it fixed.



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# Figure Out the Outcome of *Each Case*:

(Called the “Disposition” )

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Figure out which cases on your record are convictions and which one are not.

The convictions on a record determine which remedies you are eligible for.

A case resulted in a *non-conviction* if the disposition says:

1. SOL - Stricken off the docket with leave to reinstate;
2. Non-Suit;
3. NOLLE - Nolle Prosequi;
4. FNPC - Finding of No Probable Cause;
5. RWOC - Released Without Charging;
6. Conviction vacated or reversed;
7. FNG - Finding of Not Guilty;
8. *Special Dispositions* - Supervision or Special Qualified Probations.

A case resulted in a *conviction* if the disposition says:

9. Prob. or Probation;
10. C/D, Cond. Dis., or Conditional Discharge;
11. TS - Time Served; or,
12. Fines (such as money owed due to restitution -not connected to a sentence of supervision).



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# Anticipate Negative Impact of Record: Advisory Opinions

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## Advisory opinions:

Advisory opinions help you figure out if your record will prevent you from getting a certification or license *before* you put your time, money and energy into trying to get the license or certification.

**To get an advisory opinion**, send the IL Department of Financial and Professional Regulations a letter containing:

1. A letter describing the license you are trying to get an advisory opinion for;
2. Your conviction record (through a criminal history report and/or certified dispositions);
3. A brief description of the circumstances surrounding your conviction(s);
4. Copies of **any documents that help show your character & all the good things you've done** since your last conviction;
  1. **Certificates of Good Conduct or Relief from Disabilities** (discussed in later slides),
  2. **Things that show you are qualified for the license/certification you are seeking & how hard you're working to get a job** –can include things like: 1) an **updated resume**, 2) a log of the jobs you have tried to get, 3) seminars or training you've attended, and 4) certificates you've received.

**Send all this information to:** Office of the General Counsel  
IL Dept of Financial and Professional Regulation  
Division of Regulation, 100 West Randolph, 9-300  
Chicago, IL 60601



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# Remove Record from Public View: Expunging versus Sealing a Record

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## Why seal or expunge your record?

1. Sealing or expunging your record removes it from public view - only unsealed or unexpunged records show up when non-governmental employers check a person's criminal background.
2. Allows you to legally answer "No" when asked if you have "ever been convicted of a criminal offense"
3. Employers can not ask about or hire/fire based on sealed or expunged records.
4. Employers can not make employment decisions based on an expunged/sealed record.

## What happens when records are expunged:

•Only a small number of governmental agencies can see expunged case: police, State's Attorneys are examples.

## What happens when records are sealed:

- Very few entities are able to see sealed cases:
  - Law Enforcement Agencies, the Dept. of Corrections and DCFS can access sealed records.
  - The School Board, firefighter applicants, private organizations who provide direct care to children, private transportation companies looking for drug convictions and health care agencies & hospitals can access sealed **felony** conviction records only.



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# Remove Record from Public View:

## Expungement -The “All or Nothing” Remedy

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**Cases On a Record Are ONLY Eligible for Expungement if** the person has:

1. **Never been convicted of a criminal offense**/municipal ordinance violation (Even one conviction can make an *entire* record ineligible for expungement); **and**,
2. **Waiting period passes** (waiting period = amount of time that passes **after** the sentence for that case is completed).

**There is no waiting period**, meaning you can try to expunge your record immediately, **if the dispositions for your cases are:**

1. Dismissed (SOL, NOLLE, Non-Suit).
2. Case resulted in acquittal (FNG).
3. You were released without being charged (RWOC).
4. Charges reversed/vacated.

**Can expunge supervisions/qualified probations** *after* waiting period passes.

•Supervision: Eligible for expungement 2 years after successful completion of supervision (unless the supervision was for retail theft, domestic battery).

•Other Supervisions Or Qualified Probation: Eligible for expungement 5 years after successful completion of the 710-1410 probation (must file clean drug test from within 30 days of the day you file with your petition) or supervision for retail theft, domestic battery.



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# Removing Record from Public View:

## Determine Whether Your Cases are Eligible to Be Sealed

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### All non-convictions can be sealed.

–**All** acquittals, dismissals, reversed or vacated convictions, supervisions, and qualified probations (i.e. 1<sup>st</sup> time drug offense qualified probation) **can be sealed**.

### Some convictions can be sealed:

–**All non-violent and non-sexual misdemeanor crimes can be sealed** –some examples are: misdemeanor theft, criminal trespassing, disorderly conduct, criminal damage to property.

–**Beginning January 1, 2015, misdemeanor battery, assault, aggravated assault and reckless conduct;**

–**Nine felony convictions can be sealed** – Prostitution, Class 4 Drug Possession Cases, theft, retail theft, forgery, deceptive practices, possession with intent, and possession of burglary tools

•If you are trying to seal drug convictions – you **must include a negative drug test** with your petition to seal, taken **within 30 days** of the day the petition to seal is filed.

### What can NOT be sealed?

•Misdemeanors convictions **or** supervisions that involve violence or sex **cannot** be sealed.

•Examples : Domestic Battery, Assault, DUI's, Violations of Orders of Protection, Reckless Conduct, Solicitation (of prostitute), Criminal Sexual Abuse.

•Class X, Class 1, or Class 2 felony convictions **cannot** be sealed (such as burglary, robbery, etc.)

**ANY and ALL cases are eligible for clemency!** Even if you have a case that is not eligible for sealing, clemency is still a way to have it removed from public view.



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# Removing Record from Public View:

## When Eligible Cases Can Be Sealed

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### When can cases on a criminal record be sealed?

–*After* the waiting period passes.

–What is the waiting period?

–The period of time **after** the **last day** of the **last sentence** for your **last conviction OR supervision** that must pass for your eligible convictions or supervisions to be sealed.

–Waiting Periods to **seal** Eligible Cases:

–**4 year waiting period** after last conviction to have **any** *eligible convictions* sealed.

**No waiting period for dismissals, acquittals** (SOL's, Nolle's and other non-convictions – not counting supervisions or qualified probation).

–In other words, all dismissals, acquittals, reversals are eligible to be sealed IMMEDIATELY.



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# Removing Record from Public View:

## Where to Get & How to Fill Out Sealing or Expungement Forms 10

### Where to get the forms to seal or expunge eligible cases on your record:

- Get the sealing/expungement forms in Rm 1006 of the Daley center (50 W. Washington) anytime from 8:30am – 4:30pm (or from the website for the clerk of the court where the court case was).

### How to fill out the forms to seal or expungement eligible cases on your record:

- Fill in your name on each form where it says, “Defendant/Petitioner”.
- Enter your personal information on the bottom of each form where it says Name/ Address/ City,State,Zip/ Telephone/Date of Birth/Gender/Race.
- Sign and date each form where it says, “Signature of Petitioner.”
- Write the number for each eligible case on your record on each form that says, “Case No(s).” or “Case Number(s)” (slides 9-11).
- Check box 1 on the form titled “petition to seal” or “petition to expunge” criminal records and whatever other boxes relate to your record (you can not have pending charges against you).
- Where the forms say charge (the charge your rap sheet says you were charged with in court), arresting agency (which police dept arrested you), or date of arrest (day you were arrested), *use the information from your rap sheet to fill out that information.*

### Volunteer attorneys provide free assistance with completing sealing/expungement forms at the sealing/expungement help desk in room 1006 of 50 W. Washington Mon.-Fri. from 9am to noon

- Since only the first 25 people to sign-in at the help desk receive help, it is best to come between 8 and 8:30am.

### What You Need to Bring:

- 1) **A copy of your rap sheet** from the Chicago Police Department (for cases in Cook County); **AND/OR,**
- 2) Copies of certified dispositions if your cases are from outside of Cook County.



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# Removing Record from Public View:

## Cost to Seal or Expunge & What Happens After You File

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**Cost:** It is free to file a petition if you qualify for a fee waiver.

- Ask a clerk in RM 1006 for a fee waiver form, after you fill it out the clerk will direct you where you can have the form looked at to see if you are eligible *that same day*.
- After receiving a waiver, you turn in (file) the waiver *and* the sealing or expungement forms at counter 4 in room 1006 of the Daley Center.

**If you do not qualify for a fee waiver,** Petitions cost \$120 to file with the clerk (Daley Center, Rm 1006, Counter 4) plus \$9 for each case you want to seal or expunge.

### What happens after you file:

- The police dept. that arrested you, the State's attorney office that brought the charges against you, and the IL State Police Dept. are all notified that you are trying to seal your cases.
- All parties notified have 60 days to object to your sealing petition.
- Objections always result in a court date where you go before the judge.
- If your petition is objected to, bring witnesses and letters of support to the court date (hearing) to help show the judge why you need and deserve to have your record sealed or expunged.
- The judge decides whether to grant or deny petitions to seal or expunge.



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# Removing Record from Public View:

## Petition for Executive Clemency (Pardon from the Governor)

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### **ALL convictions are can be pardoned if:**

1. You petition the prisoner review board (or PRB) for clemency to discuss your petition for a pardon (the PRB hears clemency cases 4 times a year, in April and October in Chicago and in January and July in Springfield).
2. The PRB recommends to the governor that your record is pardoned and the governor takes the PRB's recommendation and grants your request for a pardon.

### **How to try and get your record pardoned on your own:**

1. **Read** the clemency guidelines (instructions) thoroughly;
2. Fill out the clemency forms; and,
  1. Guidelines and forms available online at - <http://www2.illinois.gov/prb/Pages/prbexcemex.aspx>
3. Attach documents that show you character & all the good things you've done (slide 16 includes examples of what those documents could look like).

### **Or, have an attorney help you get your record pardoned:**

**Cabrini Green Legal Aid** (312-738-2452): If your conviction is 10 years or older, CGLA **can assist you for free**.

**Ali Durrani** (private practice - 312 -805-0292).

**Chicago Legal Clinic** (CLC -773-731-1762): If your conviction is 5 years or older, CLC will file a petition for you (Costs between \$1000-1500 -payment plans accepted).



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# Decreasing the Negative Impact of a Criminal Record:

## What Certificates of Good Conduct & Relief from Disability Do & Do NOT Do 13

### What the Certificate of Good Conduct (CGC) and Certificate of Relief From Disabilities (CRD) Do:

1. Help people get jobs or licenses that they are normally unable to get because of laws or policies.
2. Make employers immune from negligent hiring liability.

### The CRD and CGC Do NOT:

1. Certificates do not erase or hide record at all;
2. Guarantee that an agency will give you the license you want;
3. Guarantee that an employer will hire you; and,
4. Prevent you from having to answer 'yes' to the question, "have you ever been convicted of a crime?"



# Decreasing the Negative Impact of a Criminal Record:

## Differences Between the Certificates of Good Conduct & Relief from Disabilities 14

### Differences between Certificates of Relief from Disability (CRD) & Certificates of Good Conduct (CGC):

1. **CRD – a CRD can help people get any of 27 specific occupational licenses that the person wouldn't be able to get otherwise because of their criminal record.**
  1. example: barbers, cosmetologists, dietitians, family therapists, clinical counselors, real estate agents, accountants and more.
  
2. **CGC – is an order from a presiding judge saying that you are fully rehabilitated and a law-abiding citizen. Receiving a CGC can:**
  1. Help people overcome state laws that prevent them from being hired or receiving an *occupational license or state employment* due to their criminal record.
    1. For example: school code (cps jobs), park districts, licensing agencies.
  2. Be presented to landlords, employers & licensing agencies to show that a judge thought enough of your conduct and character to grant your petition for a CGC.



# Decreasing the Negative Impact of a Criminal Record: Eligibility Requirements for CRD's and CGCs

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**You are NOT eligible for a CRD or CGC if your record has:**

- Any Class X felony convictions (for example, murder, aggravated robbery, aggravated criminal sexual assault);
- Any convictions for sex offenses, offenses against kids, rape, arson –or any other crime that requires post-release registration;
- Any felony convictions where victim suffered great bodily harm or permanent disability; or,
- Any convictions for aggravated DUI or aggravated domestic battery.

**If your record is eligible for a CRD**, then you may petition for a CRD at any point after the moment you are sentenced (meaning there is NO waiting period to seek a Certificate of Relief from Disabilities).

**If your record is eligible for a CGC**, then you must also satisfy the waiting period requirement before you can petition for a CGC:

- If you only have misdemeanor convictions on your record then there is a **1 year waiting period** after you complete the sentence for your last conviction before you can file a CGC petition; OR,
- If you have felony convictions on your record then there is a **2 year waiting period** after you complete the sentence for your last conviction before you can file a CGC petition.



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# Decreasing the Negative Impact of a Criminal Record: How You Petition for a Certificate

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## What you need to file a petition for a certificate:

1. Get a *recent copy of your rap sheet* **and** get “certified dispositions” for each conviction from the circuit clerk;
2. Copies of any documents that help show your character & all the good things you’ve done, for examples:
  1. **Letters of support:** from former employers, teachers, friends, community members & family members that discuss your character, work ethic, dependability, trustworthiness, dependability, commitment to family and community.
    1. Ask whomever writes the letter to sign and leave their contact information on the letter.
  2. **Things that show your qualifications and how hard you’re working to get a job** –can include things like: 1) an updated resume; 2) a log of the jobs you have tried to get; 3) seminars or training you’ve attended; and 4) certificates you’ve received.

## Go to clerk of the court where at least one of your convictions took place and:

1. Ask for the certificate of good conduct or petition for a certificate of relief from disability forms (depending on which certificate you are trying to get –you can petition for both at once if you are eligible for both);
2. Attach all the documents you gathered above to the form(s) you fill out;
3. Give the completed forms and attachments (calling “filing”) to the clerk of that court (if your convictions were in Chicago then you can file your petitions on the 5<sup>th</sup> floor of the criminal court located at 2650 S. California).

**Cost:** It is **free to file** petitions for either certificate.

**What happens after you file?** Then you will get a court date to discuss your petition in front of a judge And maybe that court’s state’s attorney.



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# Decreasing the Negative Impact of a Criminal Record: Overcoming Barriers to Employment in the Healthcare Sector 17

Health care workers include: health care aides, nurse aides or any health related occupation that involves directly caring for residents in long-term care facilities

Offenses that would normally disqualify applicants from being considered for these healthcare positions can be waived so employers can hire you if you are approved for a healthcare waiver

**Offenses not eligible for a waiver**: are listed in this link <http://www.idph.state.il.us/nar/disconvictions.htm>

- some examples are aggravated battery, murder, armed robbery, criminal sexual assault, aggravated sexual assault.

**Waiver applications can be found at**: [http://www.idph.state.il.us/nar/WAIVER\\_APPLICATION.pdf](http://www.idph.state.il.us/nar/WAIVER_APPLICATION.pdf)

**Waiver applications are most successful when you include (attach to application):**

1. A current or recent employment reference(s);
2. Letters of support (as discussed in slide 16);
3. Other evidence showing **a) your ability to do the healthcare job you are seeking well**, and 2) that you are not a threat to the health or safety of residents, patients or clients.
4. **Mail completed application & attachments to**: Illinois Dept of Public Health, Health Care Worker Registry  
525 W. Jefferson St., Fourth Floor  
Springfield, IL 62761



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# What you can do to help

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## JOIN THE MOVEMENT

- **ORGANIZING:** Work with the Community Renewal Society's FORCE Project (Fighting to Overcome Records and Create Equality) to amplify the voices of those who have made mistakes in their past.

Contact: **Marlon Chamberlain,**

[mchamberlain@communityrenewalsociety.org](mailto:mchamberlain@communityrenewalsociety.org), (312) 673-3805

- **LEGAL REPRESENTATION & COMMUNITY EDUCATION:**  
Use your legal skills to assist men and women across the state with reducing or eliminating the barriers that prevent them from providing for themselves and their loved ones.

Contact: **Todd Belcore,** [toddbelcore@povertylaw.org](mailto:toddbelcore@povertylaw.org) (312) 368-5199



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