

# Protecting the Confidentiality of Justice-Involved Youth

Hosted by the National Juvenile Justice Network  
and the Coalition for Juvenile Justice

Wednesday, March 4, 2015, 3:00PM ET





NATIONAL  
JUVENILE  
JUSTICE  
NETWORK

NJJN leads a national movement of state-based juvenile justice coalitions and organizations focused on reforming the juvenile justice system.



# Presenters

**Riya Shah**, Staff Attorney at the  
Juvenile Law Center

**Kirstin Cornnell**, Director of Operations  
at the Delaware Center for Justice



# Access to Records, Expungement, and Sealing

Riya Saha Shah  
Juvenile Law Center

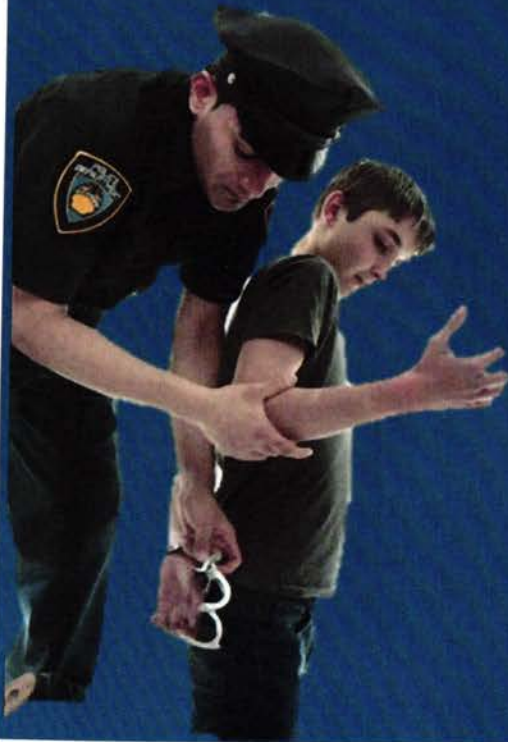




95% of youth arrests are for nonviolent offenses

Juvenile records create barriers to future opportunities

Myth that juvenile records are confidential and automatically expunged





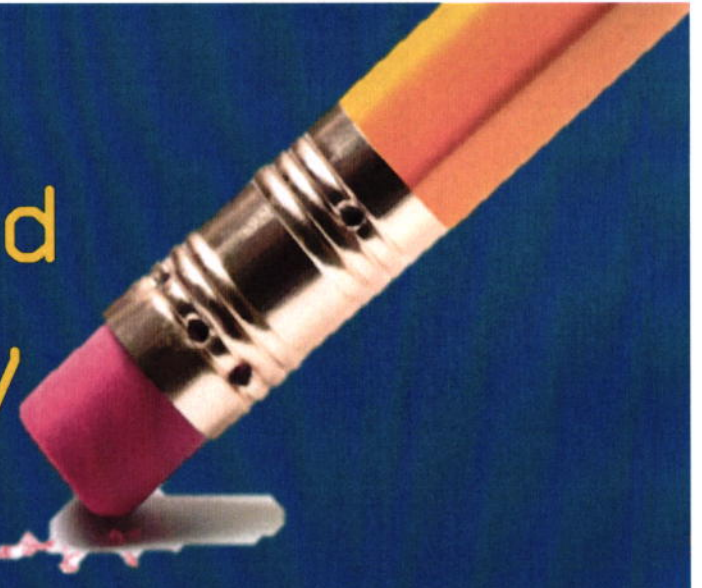
# Why records exist

- Community protection
- Track criminal behavior patterns
- Provide for appropriate levels of supervision





# Why records need confidentiality



- Utility diminishes over time
- Incorrect information in records
- Fails to appreciate adolescence is transient
- Collateral Consequences



## **Limited Accessibility**

- Sealing
- Setting aside

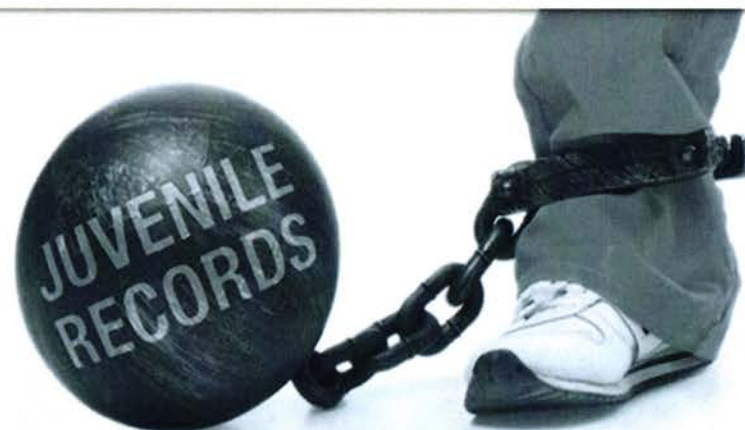
## **No Accessibility**

- Expungement
- Destruction



## FAILED POLICIES, FORFEITED FUTURES

A Nationwide Scorecard on Juvenile Records

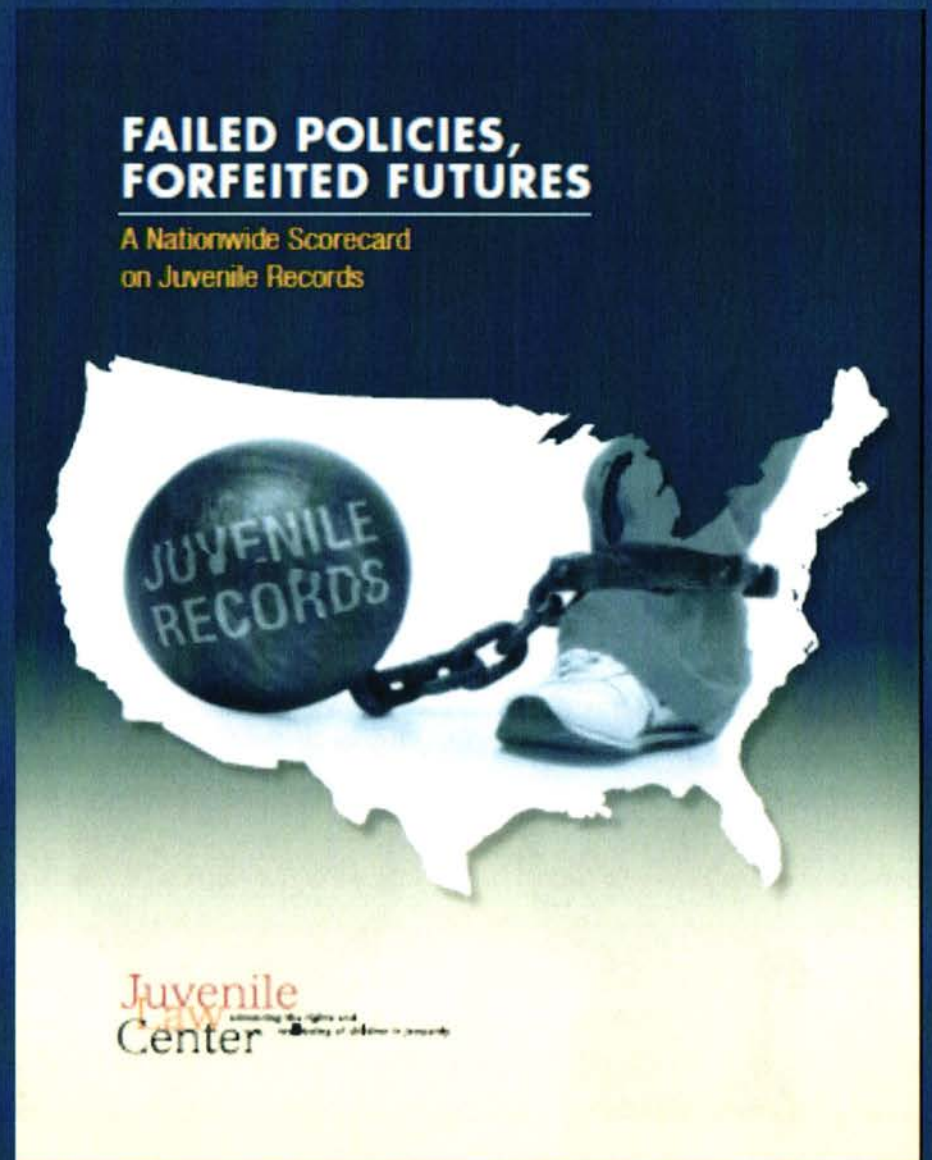


**Juvenile records need better protection.** A study of each state's policies on keeping juvenile records **confidential** and allowing for those records to be **expunged** shows that the nation limits opportunities for youth by failing to protect them from the harmful effects of their juvenile records.

[www.jlc.org/juvenilerecords](http://www.jlc.org/juvenilerecords)



- Confidentiality of records prior to sealing and/or expungement eligibility, and;
- The availability and process for obtaining Sealing and/or Expungement.





# The Results

0 states ★★★★★

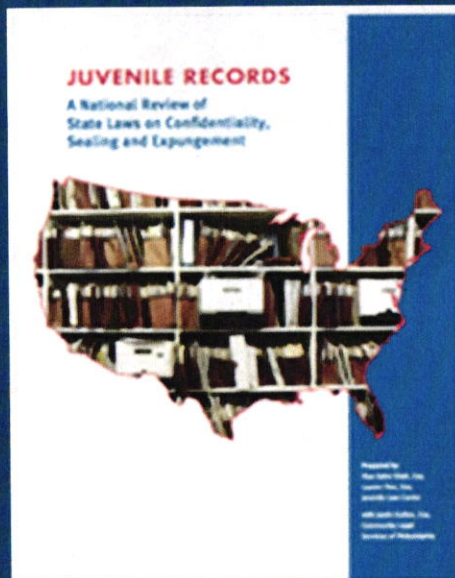
16% of states ★★★★★

55% of states ★★★★★

25% of the states ★★







# JUVENILE RECORDS: National Review of State Laws on Confidentiality, Sealing and Expungement (2014)



# State Fact Sheets describing records laws in every state and the District of Columbia (2014)



## JUVENILE RECORDS

A National Review of  
State Laws on Confidentiality,  
Sealing and Expungement



Prepared by  
Riya Saha Shah, Esq.  
Lauren Fine, Esq.  
Juvenile Law Center

with Jamie Gullen, Esq.  
Community Legal  
Services of Philadelphia

- State survey of confidentiality, sealing, expungement laws
- Core principles for optimal record protection
- Recommendations for policy reform.



# Core Principles

Confidentiality of  
Juvenile Record  
Information

Access to Juvenile  
Record Information

Sanctions for sharing  
confidential information

Effect of Sealing and  
Expungement

Notification of Sealing  
and Expungement rights

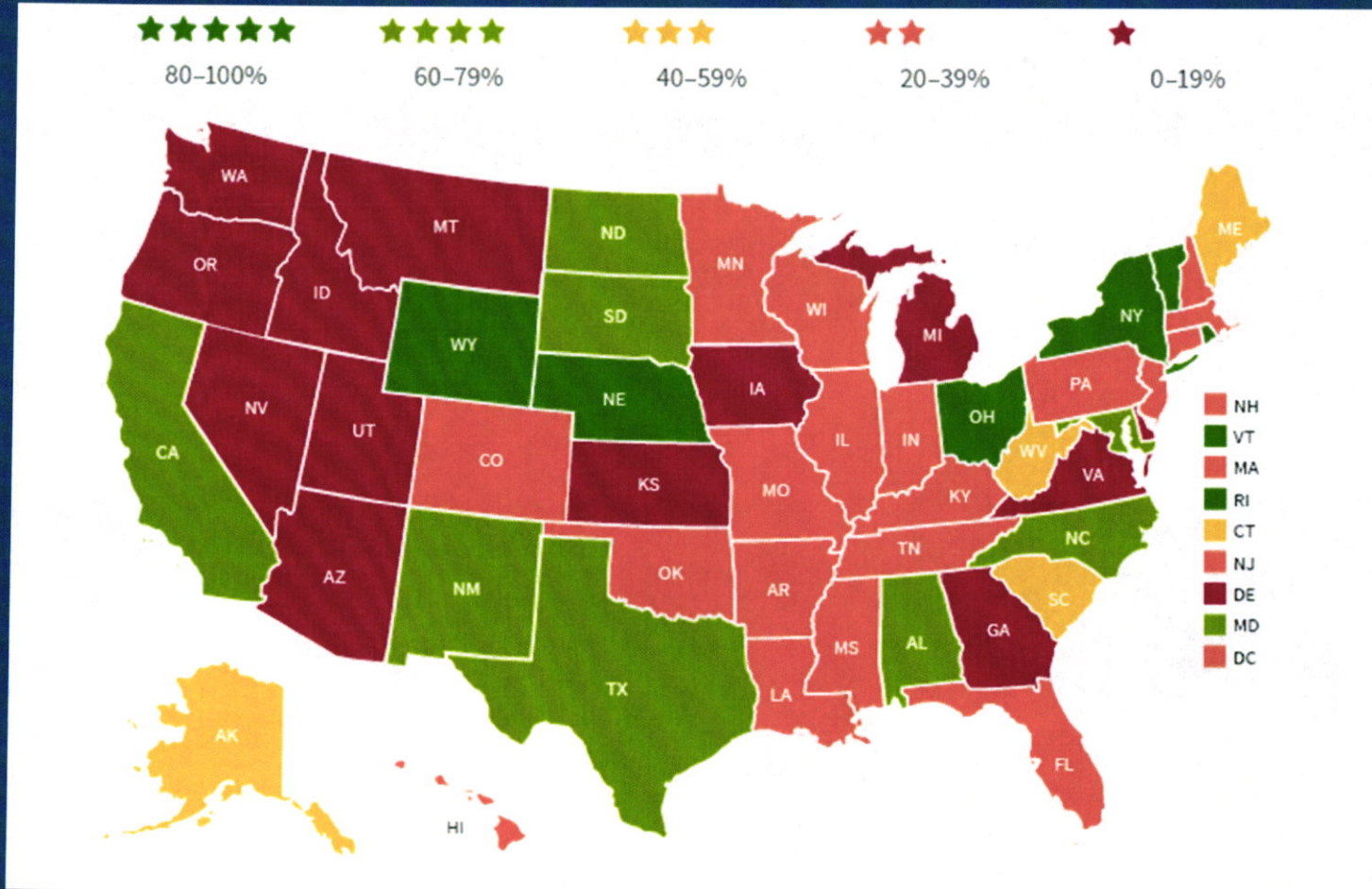
Expungement eligibility  
and process

Sanctions for sharing  
expunged record  
information

Fee for sealing and  
expungement



# Confidentiality





## Confidentiality of Juvenile Record Information

- List documents in records
- Confidentiality protections for juvenile court AND law enforcement records
- Separate adult and juvenile files



# Total scores

Click states to see complete profiles and scores. Click column headers to sort. Click rows to highlight.

## Are law enforcement records confidential?

Law enforcement records typically contain information regarding arrests, victim and witness statements, photographs, fingerprints and DNA samples. States that restrict availability of law enforcement records to law enforcement or court personnel only and do not provide exceptions to their general rules of confidentiality received the highest score.

How scoring works »

Are court records confidential?

Are records made available to the public?

Are there sanctions for unlawfully sharing confidential

State	Score (Why do total points vary?)
New York	100% (13 OF 13 PTS)
Rhode Island	100% (13 OF 13 PTS)
California	77% (10 OF 13 PTS)
Maine	77% (10 OF 13 PTS)
Nebraska	77% (10 OF 13 PTS)
Ohio	77% (10 OF 13 PTS)
South Dakota	77% (10 OF 13 PTS)
Vermont	77% (10 OF 13 PTS)
Wyoming	77% (10 OF 13 PTS)
Maryland	62% (8 OF 13 PTS)
New Mexico	62% (8 OF 13 PTS)
North Carolina	62% (8 OF 13 PTS)
North Dakota	62% (8 OF 13 PTS)
South Carolina	62% (8 OF 13 PTS)
Texas	62% (8 OF 13 PTS)
Kentucky	54% (7 OF 13 PTS)
Pennsylvania	54% (7 OF 13 PTS)
Alabama	46% (6 OF 13 PTS)
Washington	46% (6 OF 13 PTS)
<b>National average</b>	<b>34% (4.4 OF 13 PTS)</b>
Massachusetts	31% (4 OF 13 PTS)
Missouri	31% (4 OF 13 PTS)
West Virginia	31% (4 OF 13 PTS)
Alaska	15% (2 OF 13 PTS)
Arkansas	15% (2 OF 13 PTS)
Colorado	15% (2 OF 13 PTS)
Connecticut	15% (2 OF 13 PTS)
District of Columbia	15% (2 OF 13 PTS)
Florida	15% (2 OF 13 PTS)
Illinois	15% (2 OF 13 PTS)

enforcement records confidential?

## Are court records confidential?

Juvenile court records contain a youth's social, psychological, educational and family information, the results of assessments or evaluations, and other offense-related information to assist the court in planning for the child's supervision, treatment, and rehabilitation upon adjudication. States that restrict availability of court records to law enforcement or court personnel only and do not provide exceptions to their general rules of confidentiality received the highest score.

How scoring works »

Are records made available to the public?

State	Score (Why do total points vary?)
Nebraska	77% (10 OF 13 PTS)
Ohio	77% (10 OF 13 PTS)
Rhode Island	77% (10 OF 13 PTS)
Vermont	77% (10 OF 13 PTS)
Wyoming	77% (10 OF 13 PTS)
Maryland	62% (8 OF 13 PTS)
New Mexico	62% (8 OF 13 PTS)
New York	62% (8 OF 13 PTS)
North Carolina	62% (8 OF 13 PTS)
North Dakota	62% (8 OF 13 PTS)
Texas	62% (8 OF 13 PTS)
Alabama	46% (6 OF 13 PTS)
California	46% (6 OF 13 PTS)
Alaska	31% (4 OF 13 PTS)
Massachusetts	31% (4 OF 13 PTS)
New Hampshire	31% (4 OF 13 PTS)
South Dakota	31% (4 OF 13 PTS)
West Virginia	31% (4 OF 13 PTS)
<b>National average</b>	<b>28% (3.6 OF 13 PTS)</b>
Arkansas	15% (2 OF 13 PTS)
Colorado	15% (2 OF 13 PTS)
Connecticut	15% (2 OF 13 PTS)
District of Columbia	15% (2 OF 13 PTS)
Florida	15% (2 OF 13 PTS)
Hawaii	15% (2 OF 13 PTS)
Illinois	15% (2 OF 13 PTS)
Indiana	15% (2 OF 13 PTS)
Kansas	15% (2 OF 13 PTS)
Massachusetts	15% (2 OF 13 PTS)

**Best states**  
Available to least amount of people and least amount of exceptions to confidentiality



- No public access to juvenile record information
- Limited access:
  - Individuals connected to case
  - Schools
  - Government agencies
  - Research
- Court order exception

Access to Juvenile  
Record Information



Are law enforcement records confidential?

Are court records confidential?

Are records made available to the public?








Publicly available records can be placed on a searchable online database, or simply made available if an individual requests the record through the state police or the juvenile court. States that make it more difficult for the public to gain access to records received the highest score.

How scoring works »

Are there sanctions for unlawfully sharing confidential information?

Grading scale

★★★★★

State	Score ▼ (Why do total points vary?)	
Alabama	100% (6 OF 6 PTS)	
Alaska	100% (6 OF 6 PTS)	
California	100% (6 OF 6 PTS)	
Connecticut	100% (6 OF 6 PTS)	
Delaware	100% (6 OF 6 PTS)	
Maryland	100% (6 OF 6 PTS)	
Nebraska	100% (6 OF 6 PTS)	
New Mexico	100% (6 OF 6 PTS)	
New York	100% (6 OF 6 PTS)	
North Carolina	100% (6 OF 6 PTS)	
North Dakota	100% (6 OF 6 PTS)	
Ohio	100% (6 OF 6 PTS)	
Rhode Island	100% (6 OF 6 PTS)	
South Carolina	100% (6 OF 6 PTS)	
Texas	100% (6 OF 6 PTS)	
Utah	100% (6 OF 6 PTS)	
Vermont	100% (6 OF 6 PTS)	
Wyoming	100% (6 OF 6 PTS)	
<b>National average</b>	<b>58% (3.5 OF 6 PTS)</b>	
Arkansas	50% (3 OF 6 PTS)	
Colorado	50% (3 OF 6 PTS)	
District of Columbia	50% (3 OF 6 PTS)	
Florida	50% (3 OF 6 PTS)	
Georgia	50% (3 OF 6 PTS)	
Hawaii	50% (3 OF 6 PTS)	
Illinois	50% (3 OF 6 PTS)	
Indiana	50% (3 OF 6 PTS)	
Kentucky	50% (3 OF 6 PTS)	

## Juvenile records fully protected

California  
Illinois  
Nebraska  
New Mexico  
New York  
North Carolina  
North Dakota  
Ohio  
Rhode Island  
Vermont

## Juvenile records completely available to public
























Arizona  
Idaho  
Iowa  
Michigan  
Montana  
Oregon  
Washington



# Sanctions for sharing confidential information

Fine individuals or agencies that intentionally disclose confidential juvenile record information

No penalties on youth who share their own confidential information

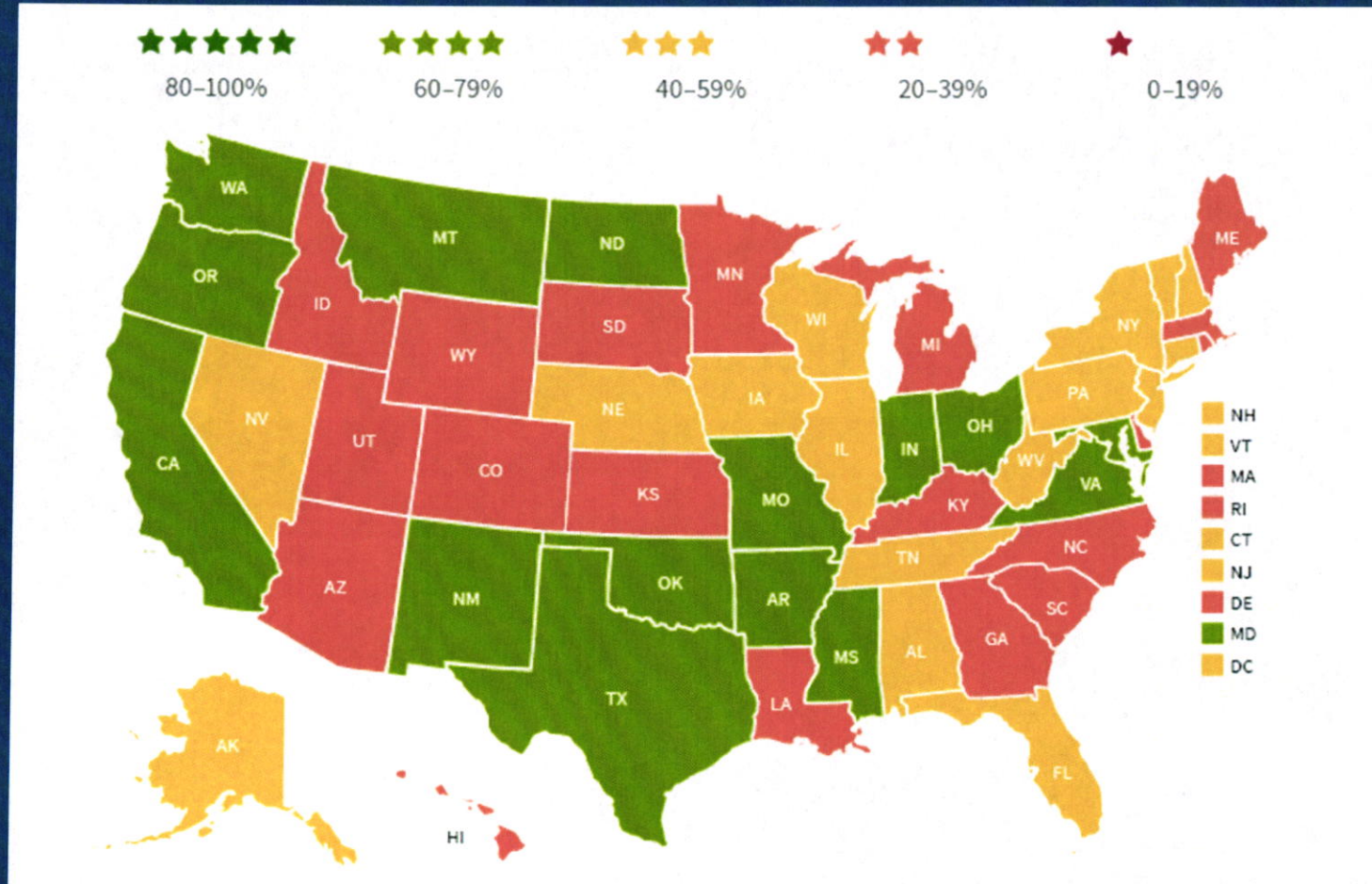
records confidential?	<b>National average</b>	<b>100% (6 OF 6 PTS)</b>	
Are court records confidential?	Alabama	100% (6 OF 6 PTS)	
	Alaska	100% (6 OF 6 PTS)	
	Colorado	100% (6 OF 6 PTS)	
Are records made available to the public?	District of Columbia	100% (6 OF 6 PTS)	
	Georgia	100% (6 OF 6 PTS)	
	Indiana	100% (6 OF 6 PTS)	
<b>Are there sanctions for unlawfully sharing confidential information?</b>	Iowa	100% (6 OF 6 PTS)	
	Louisiana	100% (6 OF 6 PTS)	
	Maine	100% (6 OF 6 PTS)	
	Montana	100% (6 OF 6 PTS)	
	New Hampshire	100% (6 OF 6 PTS)	
	New Jersey	100% (6 OF 6 PTS)	
	New Mexico	100% (6 OF 6 PTS)	
	Oklahoma	100% (6 OF 6 PTS)	
	South Carolina	100% (6 OF 6 PTS)	
	South Dakota	100% (6 OF 6 PTS)	
	Tennessee	100% (6 OF 6 PTS)	
	Vermont	100% (6 OF 6 PTS)	
	West Virginia	100% (6 OF 6 PTS)	
	Wyoming	100% (6 OF 6 PTS)	
	Arizona	0% (0 OF 0 PTS)	
	Arkansas	0% (0 OF 0 PTS)	

Grading scale





# Sealing and Expungement





## Effect of Sealing and Expungement

### After sealing:

---

- physically or electronically segregated so that only persons or agencies with statutory authority can gain access

### After expungement:

---

- deleted from the files of the court; and
- respond that no record exists



## Physical destruction of expunged records

Alabama  
Arizona  
Florida  
Hawaii  
Idaho  
Illinois  
Indiana  
Michigan  
Mississippi  
Missouri  
Montana  
North Dakota  
Oregon  
South Carolina  
Tennessee  
Texas  
Washington  
Wisconsin

### Is sealing or expungement available?

Sealing records alone can be ineffective because even if a record is technically sealed to everyone, it is physically still accessible and therefore can interfere with the youth's future plans. States that provide for complete sealing and expungement of juvenile records received the highest score, ensuring that youth can put their past behind them and focus on their futures.

How scoring works -

### What records are subject to sealing and/or expungement?

### What offenses are excluded from sealing or expungement?

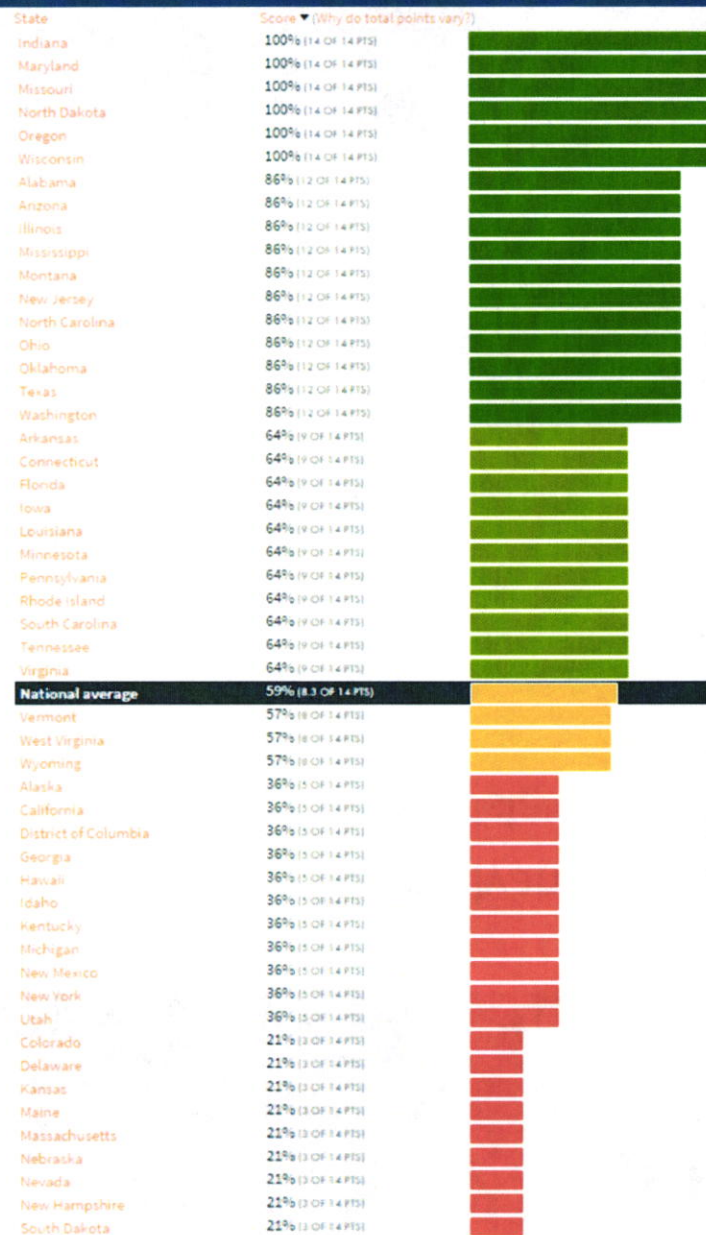
### Is sealing or expungement automatic or must the youth or some other individual or entity file a petition to initiate the process?

### How and when is the youth notified of the availability of sealing or expungement, the process for sealing or expungement, and eligibility?

### When may a juvenile's records be sealed or expunged?

### Must the youth pay a fee for sealing or expungement?

### Are sanctions imposed for failure to comply with sealing or expungement law?





# Expungement of law enforcement AND court records

Alabama

Connecticut

District of Columbia

Florida

Idaho

Illinois

Indiana

Kansas

Kentucky

Louisiana

Maryland

Missouri

New Jersey

New Mexico

North Carolina

North Dakota

Oklahoma

Oregon

Pennsylvania

Rhode Island

Texas

Utah

Vermont

Washington

West Virginia

Wyoming



## Notification of Sealing and Expungement rights

- by the child's attorney;
- by the Court at the final hearing;
- by the juvenile probation department when supervision discharged;
- by the child's attorney and the court at the time the child is eligible to apply for expungement
- by the Clerk of Court when the expungement has been completed.




## Notification of Sealing and Expungement rights

- consequences of being adjudicated delinquent;
- information about the child's expungement rights;
- difference between a sealed and expunged record; and
- timeline for automatic expungement or expungement upon application



# Web-based notification tools



Louisiana Center  
for Children's Rights

Home About FAQ Glossary LEGAL HELP

**If you were arrested in Louisiana when you were 16 or younger, you probably have a juvenile record.**

Your juvenile record can have long-lasting negative effects. The good news: most juvenile records can be erased through a process called **juvenile expungement!** Expungement essentially wipes the slate clean - all files and information are destroyed, as if your arrest never happened!

There are many reasons why you don't want a juvenile record  
[Learn more >](#)

Answer some questions to find out if you're eligible for juvenile expungement in Louisiana

**START!**

If you know you're eligible, apply for juvenile expungement!  
[Get Forms >](#)

ExpungeMaryland.org (beta)

Menu

**It's time for a do-over!**

You had a run-in with the criminal system. You may have a criminal record and it may be preventing you from bettering your life.

However, you can do something about it.

If you meet certain requirements, you can get your criminal record erased through a process called expungement. ExpungeMaryland.org is a free online tool which helps determine, through a few simple questions, if your record can be expunged. The tool also suggests next steps which often include working with a lawyer.

The entire online review takes less than 5 minutes. Let's get started!

[What is Expungement?](#) [How can I expunge my record?](#) [Can I expunge my record?](#)

EXPUNGE PHILADELPHIA

ABOUT FAQS EXPUNGEMENT HOTLINE



**START!**

FIND OUT IF YOU'RE ELIGIBLE FOR JUVENILE EXPUNGEMENT

expunge.io Home About FAQS Expungio

LEGAL AID

**Erase your Illinois juvenile record!**

If you were arrested in IL when you were under 18, you probably have a juvenile record.

A juvenile record does not go away on its own, and you're better off without one. The good news: most juvenile records can be erased through a process called juvenile expungement.

**Juvenile Expungement 1-2-3**

1. Find out if you're eligible!  
**START!**
2. Get your arrest information (rap sheet)  
[Find Out How >](#)
3. Apply for expungement  
[Get Paperwork >](#)



## Expungement eligibility and process

- Automatic sealing at discharge
- Automatic expungement of diverted and dismissed cases
- Automatic expungement if the person has no subsequent or pending adjudications or convictions for the following five years; or
- Expungement at any time after hearing



Is sealing or expungement available?

What records are subject to sealing and/or expungement?

What offenses are excluded from sealing or expungement?

Many states limit sealing or expungement to records of certain offenses. States where records of all juvenile adjudications, regardless of the nature or grading of the offense, are eligible for either sealing or expungement received the highest score.

How scoring works >

Is sealing or expungement automatic or must the youth or some other individual or entity file a petition to initiate the process?

How and when is the youth notified of the availability of sealing or expungement, the process for sealing or expungement, and eligibility?

When may a juvenile's records be sealed or expunged?

Must the youth pay a fee for sealing or expungement?

Are sanctions imposed for failure to comply with sealing or expungement law?

Grading scale



State	Score ▼ (Why do total points vary?)	
Arkansas	100% (7 OF 7 PTS)	
California	100% (7 OF 7 PTS)	
Connecticut	100% (7 OF 7 PTS)	
District of Columbia	100% (7 OF 7 PTS)	
Georgia	100% (7 OF 7 PTS)	
Hawaii	100% (7 OF 7 PTS)	
Indiana	100% (7 OF 7 PTS)	
Iowa	100% (7 OF 7 PTS)	
Maine	100% (7 OF 7 PTS)	
Maryland	100% (7 OF 7 PTS)	
Massachusetts	100% (7 OF 7 PTS)	
Mississippi	100% (7 OF 7 PTS)	
Missouri	100% (7 OF 7 PTS)	
Nebraska	100% (7 OF 7 PTS)	
New Hampshire	100% (7 OF 7 PTS)	
New Mexico	100% (7 OF 7 PTS)	
Oklahoma	100% (7 OF 7 PTS)	
South Dakota	100% (7 OF 7 PTS)	
West Virginia	100% (7 OF 7 PTS)	
Wisconsin	100% (7 OF 7 PTS)	
<b>National average</b>	<b>54% (3.8 OF 7 PTS)</b>	
Florida	43% (3 OF 7 PTS)	
Montana	43% (3 OF 7 PTS)	
North Dakota	43% (3 OF 7 PTS)	
Pennsylvania	43% (3 OF 7 PTS)	
Tennessee	43% (3 OF 7 PTS)	
Illinois	29% (2 OF 7 PTS)	
Kansas	29% (2 OF 7 PTS)	
Kentucky	29% (2 OF 7 PTS)	
Louisiana	29% (2 OF 7 PTS)	
Nevada	29% (2 OF 7 PTS)	
North Carolina	29% (2 OF 7 PTS)	
Ohio	29% (2 OF 7 PTS)	
Oregon	29% (2 OF 7 PTS)	
Rhode Island	29% (2 OF 7 PTS)	
Texas	29% (2 OF 7 PTS)	
Utah	29% (2 OF 7 PTS)	
Washington	29% (2 OF 7 PTS)	
Wyoming	29% (2 OF 7 PTS)	
Alabama	14% (1 OF 7 PTS)	
Alaska	14% (1 OF 7 PTS)	
Arizona	14% (1 OF 7 PTS)	
Colorado	14% (1 OF 7 PTS)	
Delaware	14% (1 OF 7 PTS)	
Idaho	14% (1 OF 7 PTS)	
Michigan	14% (1 OF 7 PTS)	
Minnesota	14% (1 OF 7 PTS)	
New Jersey	14% (1 OF 7 PTS)	
New York	14% (1 OF 7 PTS)	
South Carolina	14% (1 OF 7 PTS)	
Vermont	14% (1 OF 7 PTS)	
Virginia	14% (1 OF 7 PTS)	

## Eligibility

- Age
- Offense
- Duration of time since case closure



## Sanctions for sharing expunged record information

- Fine for disclosure of confidential information contained in an expunged juvenile court or law enforcement record.
- Fine individuals or agencies that intentionally fail to carry out expungement orders.
- No penalty on youth who share their own expunged juvenile record information



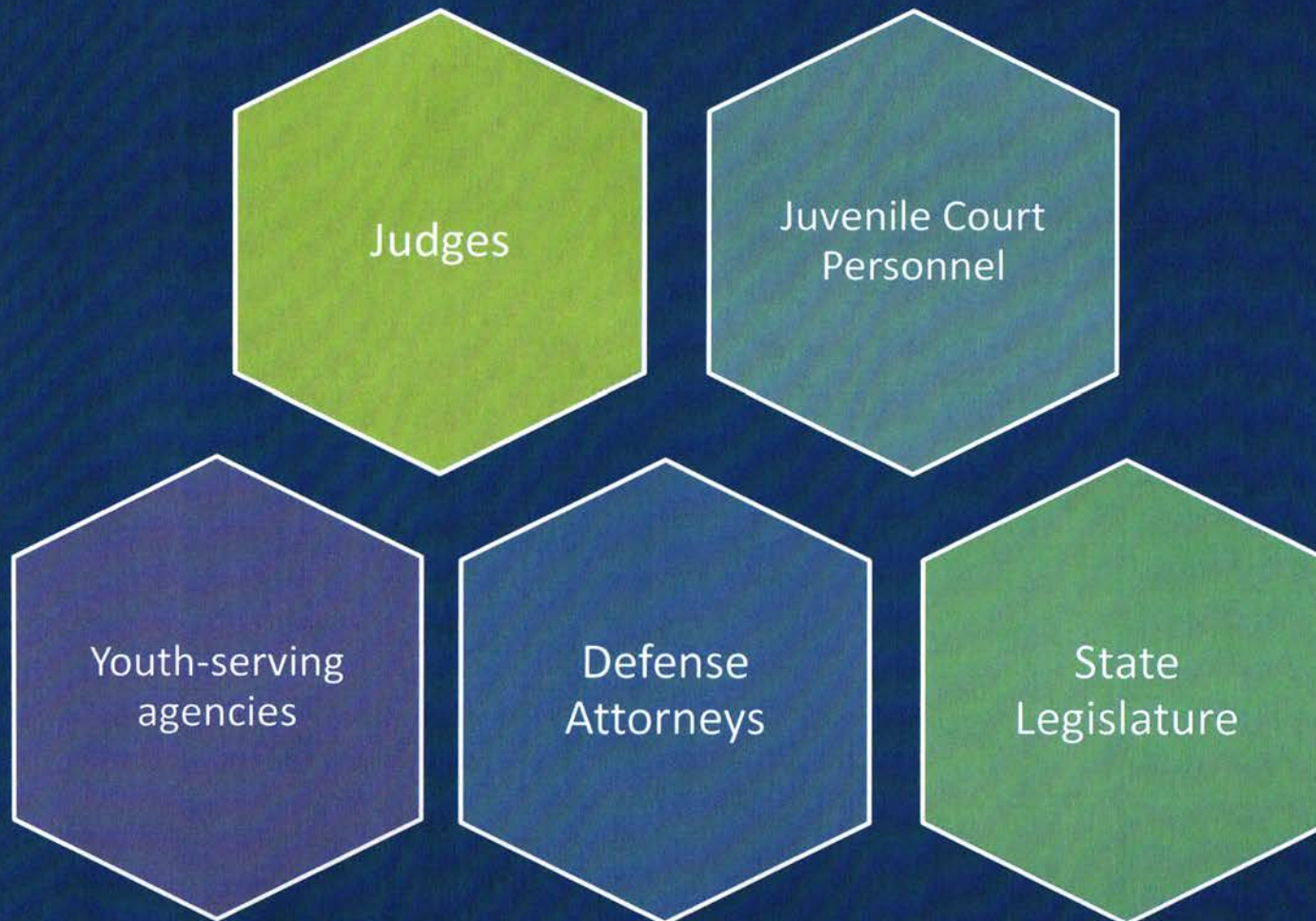


## Fee for sealing and expungement

- No fee to file
- No fee to expunge



# Policy recommendations





# REDEEM Act

## The Record Expungement Designed to Enhance Employment Act

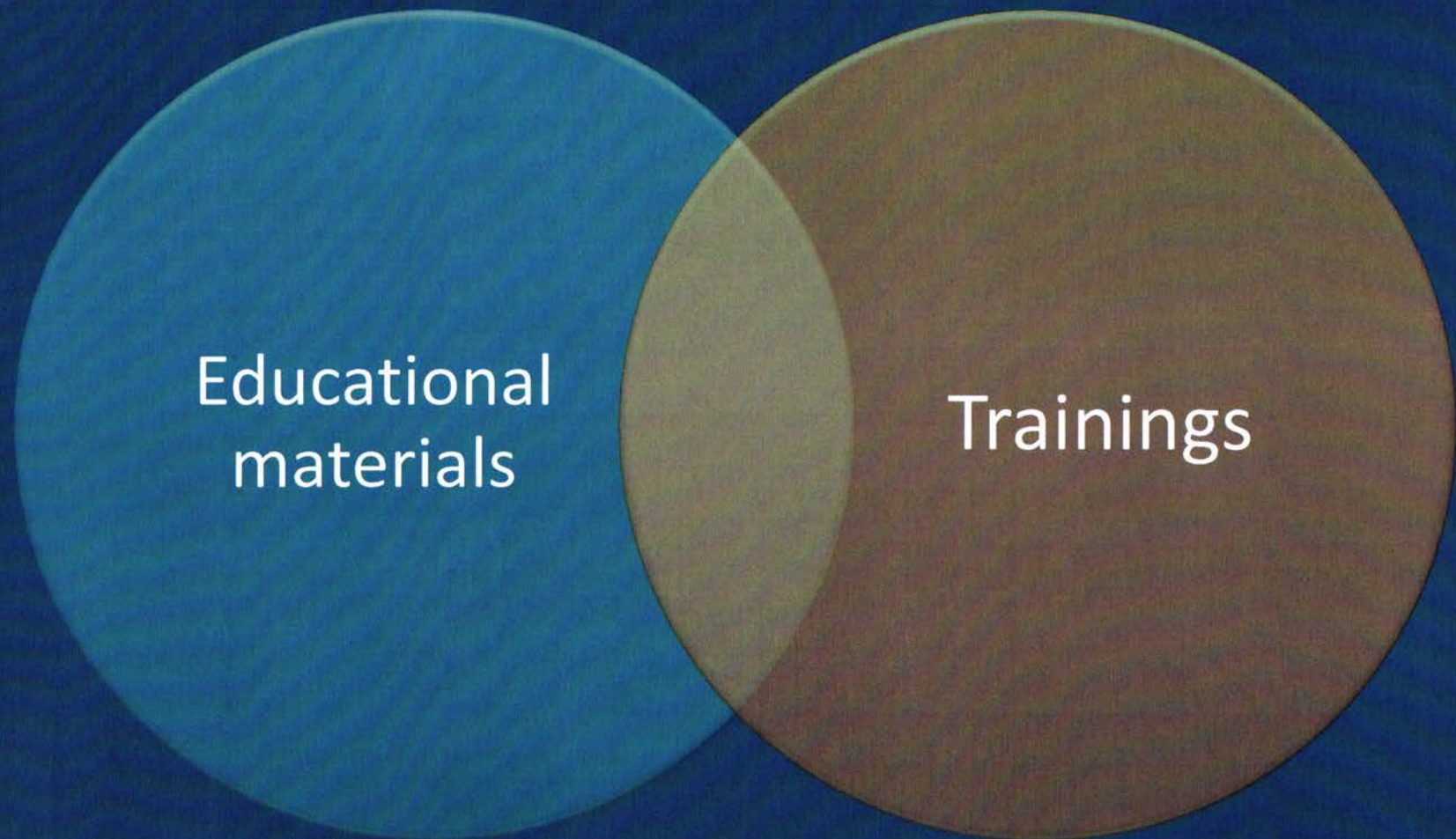
Senators Cory Booker (D-NJ) and Rand Paul (R-KY)



- automatic expungement of records for kids who commit non-violent crimes before they turn 15
- automatic sealing of records for those who commit non-violent crimes after they turn 15 years old



# Youth-serving agencies







Riya Saha Shah  
[rshah@jlc.org](mailto:rshah@jlc.org)  
[www.jlc.org](http://www.jlc.org)



# State Spotlight: Delaware



Kirstin Cornnell  
Delaware Center for Justice





## **Delaware Center for Justice, Inc.**

---

---

- The Delaware Center for Justice, Inc. is a non-profit United Way agency, dedicated to creating a safer, more secure Delaware by seeking to achieve and preserve a high quality of justice.
- We fulfill our mission through an extensive range of programs and services, public education, research, and advocacy.



# Expungement in DE

- As of 2012, expungement no longer involves the destruction of records
- Records are not available to the public, but there are many exceptions to confidentiality
- No automatic expungement
- No formal process to notify youth of expungement process or eligibility
- Restricted opportunity for mandatory and discretionary expungement



# Reform Targets

- Prevent convictions for minor offenses from barring expungement; Fuller vs. State of Delaware
- Allow for automatic and immediate expungement for misdemeanors or violations terminated in child's favor
- Allow for discretionary expungement for multiple misdemeanor or violation adjudications
- Allow for discretionary expungement for a felony adjudication plus a misdemeanor adjudication
- Relieve Financial burden
  - Family Court Filing Fee
  - State Bureau of Investigation (SBI) criminal record fee
- Inclusion of a "catch all" provision



# Strategies to Overcome Obstacles

- Engage new administration
- Address educational gaps
  - Control and simplify message
  - Speak to violence in Wilmington
- Develop communication strategy- framing metaphors
- Build community partnerships
- Engage youth and issue leaders