



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, and the policies, process and politics that shape them.

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### **Clean Slate Streamlines Process to Clear Criminal Records | Nov. 9, 2020 | Episode 112**

Ed: Hello and welcome to “Our American States,” a podcast from the National Conference of State Legislatures. This podcast is all about legislatures: the people in them, the policies, process and politics that shape them. I’m your host, Ed Smith.

*“In my community, one of the major barriers to employment was criminal records.”*

That was Representative Jordan Harris of Pennsylvania, one of our guests on the podcast. Harris, a Democrat, and Representative Sheryl DeLozier, a Republican, cosponsored the first clean slate legislation in the nation. It became law in 2018.

The clean slate approach uses technology to automatically clear criminal records if a person stays crime free for a certain period of time. Representative Harris explains how the legislation has been implemented and points out that it has affected more than one million people in Pennsylvania.

Our second guest is Anne Teigen, a policy expert at NCSL who follows clean slate legislation and other criminal justice reform efforts. Let’s start with Representative Harris. Welcome to the podcast.

Harris: Thank you so much for having me.

*Time Marker (TM): 01:25*

Ed: So, Representative Harris, let me first thank you for taking the time to join me today. Let’s start with a little explanation for our listeners about clean slate in general, what that policy means.

Harris: In Pennsylvania, we have what’s called the process of limited access, so, it’s different from expungement in the sense that when something is given limited access, that means that it is

only viewable, and we're talking about criminal records... it is only viewable by law enforcement: police officers, district attorneys and the like.

So, with clean slate, what we've done is we noticed when we created the order of limited access that very few people were going to take advantage of this new law. The process of clean slate does it, but it now does it automatically.

So, in Pennsylvania, those who have misdemeanor twos and threes, which are our lowest level offences, those with misdemeanor twos and threes that are of a nonviolent nature, after ten years, if you've paid your fines, fees and restitution, it is automatically clean slated, which means that it is sealed on your record. In addition, those with misdemeanor ones can go to court and get those things sealed.

But the clean slate part is around m2s and m3s that are automatically sealed after ten years once you pay your court costs and fines.

We did that in 2018; it took effect in 2019; and the last time we checked, 35 million records have been sealed, 47 million offenses, and it has helped 1.1 million people.

*TM: 03:07*

Ed: Pennsylvania was the first state in the country to pass a clean slate law sponsored by you and Representative Delozier. Why did you feel this was such an important piece of legislation for your constituents?

Harris: Criminal justice reform has been a major issue for me since getting elected to the legislature. In my community, one of the major barriers to employment was criminal records, and a lot of times, those records had to do with drugs or crimes of financial necessity.

One of the things that I've always said is the war on drugs in my community was nothing more than a war on people and the stains still exist in many of the households across my community. So, I would always have folks asking for help with employment, and one of the first questions you always had to ask was: do you have a criminal record? Because there were far too many places that would not hire you with a record, even though you were qualified.

So, when I got to the legislature, it was important to me that I find a way that we can provide relief and respite to those, many of them who were desperate for not a handout, but a hand into the economy.

We started working on criminal justice reform. We did order of limited access and then some advocates came to me and my colleague, Representative Sheryl Delozier, with this idea for clean slate.

*TM: 04:32*

Ed: Are there specific instances where you've seen someone able to get a job or a license or certification as a result of having their record cleared?

Harris: Oh, absolutely. I can tell you people who have actually reached out to me via social media to let me know that they're now employable because of what we've done with clean slate. In addition, there have been people who may have been employed, but couldn't move up in their employment because of their criminal records, who are now able to take a promotion and can now provide better for their family and for their children.

In addition to that, we've done some work around what we call professional licensing reform here in Pennsylvania, so now there are more people because of that and clean slate combined who now can get professional licenses who couldn't get professional licenses before we started this process.

So, is it the end-all, be-all? No. Does it help everybody with a criminal record? No. Is there much more work to be done? Yes. But has it gotten us further along the pathway of reform? Absolutely.

*TM: 05:40*

Ed: Well, let's drill into what the next steps are a little bit. What else is Pennsylvania looking into, or what other areas would you like to focus on in terms of criminal records reform?

Harris: Well, as far as criminal records reform, we must, must, must tackle felonies, particularly nonviolent drug felonies. There are far too many people walking around in Pennsylvania who have felonies, which hinders them from being involved not just in the economy, but there are... I think the number was more than 900 different laws, regulations or whatnot in Pennsylvania that hinder people from being included because of felonies.

So, for me, criminal record sealing, expungement or whatnot has to now move forward to felonies. Like you said, Pennsylvania was the first state in the nation to do clean slate. Utah was the second. And now, Michigan is the third state to do it. But Michigan's law, and I told my friends from Michigan I'm a little jealous... Michigan's law does include felonies because they understand how a felony from 10, 15, 20 years ago can still affect you today.

So, for me the next step has to be around felonies and how we get that done in clean slate.

*TM: 07:02*

Ed: Well, as you know, the audience for our podcast is your colleagues, legislators around the country as well as legislative staff and other state policymakers. And I'm wondering, what message would you want to leave with them? What advice would you have for them as the pioneer in this area as they start to look at this issue in their states?

Harris: I think the first thing is don't be afraid to walk down this pathway. You can still be tough on crime. Actually, I take that back; I don't think we need to be tough on crime; we need to be smart on crime. So, you can still have relationships with your police officers, your district attorneys, your sheriffs, and still be a champion for reforming the justice system.

For me, a lot of these things are job bills, and they help create job opportunities for folks. Don't be afraid to walk down this pathway.

Two, don't be afraid to find unlikely allies in this work. Before Sheryl DeLozier and I... Sheryl is a Republican from Cumberland County, Pennsylvania; I am a Democrat from Philadelphia County; before we started down this journey, we hadn't worked together. Since then, not only have we done clean slate; we've done professional licensing reform and we're also working on probation reform.

So, I found an ally, a strong partner in Sheryl to not only do clean slate, but to get a lot of this other work done. So, I would say: don't be afraid to start; don't be afraid to find a partner.

But the other thing that I would say is the issue is actually very popular politically. This issue doesn't know race or color or actually finance for that matter. It affects a lot of people. And I believe sensible criminal justice reform is wildly popular. I mean, it's one of the issues that you see in our current political climate that both presidential candidates talk about positively.

So, now is the time and we have to strike while the iron is hot to fix a lot of the wrongs that our criminal justice system has caused, and by doing so, we free a lot of people and provide them with the economic opportunities that many of them need and desire.

Ed: Well, I think you're right that this is an issue that seems to draw bipartisan backing at both the state and federal level. Thank you again for sharing your time and perspective on this issue. Stay safe.

I'll be right back with Anne Teigen.

#### MUSIC & VO

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Ed: Anne, welcome to the podcast.

Anne: Thank you so much for having me, Ed.

*TM: 10:03*

Ed: Anne, earlier in this podcast, I spoke with Representative Jordan Harris of Pennsylvania about enacting clean slate legislation in that state. Can you tell us if there are efforts in other parts of the country to pass similar legislation?

Anne: Yes, there are other states. They're definitely taking notice of the action Pennsylvania took. In 2019, Utah enacted similar clean slate legislation. Under Utah's new law, traffic offenses are actually truly automated expungements.

Other eligible offenses like shoplifting, furnishing alcohol to a minor and others can be automatically expunged if a person is crime-free for five years for a class C misdemeanor, six

years for a class B misdemeanor, and seven years for a drug possession, the only class A misdemeanor that is eligible for expungement.

But really, the big news recently comes out of Michigan. Just last month in October, Michigan became the first state to enact clean slate legislation that automatically clears qualifying felonies. This package of bills created an automatic process for setting aside, for those who are eligible, misdemeanors after seven years and eligible non-assaultive felonies after ten years.

Now, felonies that are punishable by more than ten years in prison, or violent crimes, or crimes of dishonesty such as forgery, human trafficking and other serious crimes, aren't eligible for record clearing.

The package of bills, in addition to the automatic expungement of some offenses, also made other changes to state law that help people and give more opportunities for them to apply for expungement of other old convictions like marijuana offenses.

*TM: 11:53*

Ed: So, I think some listeners might see this sort of criminal justice reform as a partisan issue, but in Pennsylvania, there was bipartisan support, and I understand legislation in Utah passed out of both chambers unanimously. That's rare in this political climate. Can you talk about why this issue has drawn such strong bipartisan support?

Anne: Absolutely. The examples of bipartisanship do not stop at Pennsylvania and Utah. Lawmakers in North Carolina enacted broad record-clearing reforms last year that made it easier for people to petition the courts for relief. And North Carolina's bill was voted unanimously out of the House and Senate.

The Michigan bill that I recently talked about passed nearly unanimously out of the House in 2019, and unanimously out of two Senate committees this year. For the final votes, more than 84% of representatives and 76% of senators voted in favor of the bill.

I really think the reason that this issue is bipartisan is that most people believe in second chances if you have paid your debt to society. And what lawmakers were learning was that misdemeanors or even criminal charges without a conviction were having very negative effects on people's lives.

According to the American Bar Association, there are more than 45,000 federal and state statutes or regulations that disqualify or disadvantage individuals with conviction records. That means there are 45,000 different ways a person can be prohibited access to employment, occupational licensing, housing, voting, education, and other opportunities.

Legislators who have passed clean slate legislation in their states have tried to reduce that 45,000 number to make it easier for someone who is eligible for record clearing to actually get their record cleared, something that some have described as a big boulder being taken off their shoulders.

*TM: 13:55*

Ed: Even with bipartisan support, I'm sure some lawmakers have concerns about this sort of legislation. What sort of concerns have you heard in talking with legislators?

Anne: I think that is a great question. Lawmakers and constituents alike have worried that these clean slate laws take away from responsibility. After all, these laws, these collateral consequences, are rooted in attempts to protect public safety.

No one wants someone convicted of assault or physical abuse to be taking care of nana at the nursing home. That person could be a credible potential threat. And people want to know who they are putting in positions of trust. For example, no one wants a person who has been convicted of embezzlement or fraud to be their next church treasurer or CFO.

And I think that is why not all crimes are eligible for this automatic expungement, and not all crimes are eligible for expungement at all. I think there's a bit of a balance that needs to be found. It's really not easy, but these states that have enacted clean slate legislation believe they have found a fair solution.

*TM: 15:05*

Ed: There is an economic angle to clearing criminal records and giving people better opportunities in the workplace. Can you explain how this affects people's job prospects?

Anne: Absolutely. Just to give you the scope, between 70 million and 100 million, or as many as one in three Americans have some type of criminal record. So, this affects a lot of people throughout the country. And there has been quite a bit of research on this in the past few years.

The Center for Economic and Policy Research estimates the economy in this country loses an estimated 87 billion dollars in GDP every year due to people with criminal records being excluded from the workforce.

The passage of the law in Michigan this year is especially historic because one of the best studies on the effects of record clearing came from a study from the University of Michigan. That study found that only about 6.5% of individuals in that state who were eligible to get their records cleared actually went through the process within five years because the process is so complicated and cumbersome.

The researchers found that getting a record expunged was very economically advantageous. For example, for people who did get their records cleared in the study, within a year after that record was cleared, the study found that people were 11% more likely to be employed, and those with jobs earned wages 22% higher than those with uncleared records.

So, Ed, this criminal justice issue really phases into and becomes a workforce issue and a big economic issue.

*TM: 16:46*

Ed: Anne, thanks for taking the time to discuss this. Before we wrap up, is there anything else you'd like to add?

Anne: Yes, just that I would like to say that I expect more clean slate legislation being introduced in 2021. New Jersey and Louisiana created statewide taskforces to develop and implement clean slate policy this year and 2019, so those measures should be moving forward next year.

Also, Connecticut lawmakers have been considering clean slate legislation this year in 2020 and had even earned an endorsement from the governor who allocated money for its implementation in his budget.

So, I would definitely encourage listeners to check back with NCSL's criminal justice staff and visit [ncsl.org](http://ncsl.org) because I think there will be more and more news about clean slate and automatic record clearing in the year to come.

Ed: Anne, thanks again for your time and expertise on this issue. Stay safe.

#### MUSIC

Ed: And that concludes this edition of our podcast. We encourage you to review and rate our episodes on iTunes, Google Play or Spotify. You may also go to Google Play, iTunes or Spotify to have these episodes downloaded directly to your mobile device when a new episode is ready. For the National Conference of State Legislatures, this is Ed Smith. Thanks for listening and being part of "Our American States."