

**HELPING JUSTICE-INVOLVED INDIVIDUALS WITH
SUBSTANCE USE AND/OR MENTAL HEALTH DISORDERS:
UNDERSTANDING HOW LAWS, REGULATIONS, &
POLICIES AFFECT THEIR OPPORTUNITIES**

MISSOURI



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MISSOURI

This section summarizes Missouri State laws, policies and practices that promote or hinder successful re-entry for justice-involved Missouri residents, particularly those with substance use or mental health disorders. Re-entry service providers, such as peer-support coaches, mentors and outreach workers will find that if they understand these laws and policies, they will be better equipped to help individuals successfully re-enter their communities.

Providers also should read [Section I](#) of this guide, which summarizes federal barriers to jobs, housing, and higher education for people with criminal records. Section I also summarizes federal legal protections and initiatives to help people overcome these barriers.

EMPLOYMENT

A broad range of Missouri laws and policies restricts the ability of justice-involved individuals to work in specific jobs and industries. [Section I](#) highlighted the federal laws that limit employment in health care, commercial transportation, insurance, financial and other sectors. Missouri state law also imposes criminal record restrictions on certain jobs and occupational licenses. The Missouri Division of Professional Registrations oversees 38 licensing boards that oversees licensing for over 60 occupations. Occupational licensing agencies may not automatically deny applicants licensure on the basis of their criminal history without considering certain factors:

- The level of seriousness of the crime;
 - The date of the crime;
 - The age of the person at the time of the crime;
 - The circumstances surrounding the criminal conduct and the prospective duties of the applicant as a licensee;
 - The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date of the crime;
 - The subsequent commission of a crime by the applicant;
 - Any affidavits or other written documents, including character references.ⁱ
- **Missouri Industry-Specific Restrictions on Employment**

Public employers may not automatically disqualify an applicant for employment on the basis of a conviction unless the conviction is “reasonably related to the competency” of the applicant to hold the relevant job. On the other hand, there are no restrictions on private employers’ use of criminal history.

Criminal background checks are required by law for employment with a youth service agency,ⁱⁱ healthcare provider,ⁱⁱⁱ school (including school bus-drivers),^{iv} as well as with state or federally-funded in-home child care providers.^v

People convicted of certain offenses are disqualified from employment in particular positions. For example, someone convicted of certain offenses involving abuse or neglect of vulnerable people or patients is prohibited from working in any public or private facility, day program or mental health facility where persons are admitted voluntarily or are civilly detained.^{vi} A wider range of offenses preclude working in “direct-care positions,” although, it is important to note that applicants may request an exception, “especially if the person is in recovery and the disqualifying felony offense was alcohol or drug related.”^{vii} In addition, long-term care facilities, hospitals, home health agencies, in-home services providers, hospices, and adult day care providers are prohibited from hiring employees with certain convictions.^{viii}

An applicant for any occupational or professional license cannot be denied solely on the basis of a felony conviction, except as specifically required by law.^{ix} In addition, a licensing board may not deny a license primarily upon the basis that a felony or misdemeanor conviction precludes the applicant from demonstrating good moral character.^x The conviction may be considered “as some evidence of an absence of good moral character” but the board is also required to consider 1) the “nature of the crime committed in relation to the license” sought; 2) the date of the conviction; 3) the applicant’s conduct since the conviction; and 4) other character evidence.^{xi}

Criminal background checks are required when applying for certain occupational licenses, including those for taxi cab driver,^{xii} massage therapists,^{xiii} marital and family therapist,^{xiv} and psychologists.^{xv}

A proposed new law (Senate Bill No. 635) prohibits someone from receiving a nursing license if convicted of any felony or “misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.”^{xvi}

- **Background Screens**

The Missouri State Highway Patrol’s Criminal Justice Information Services (CJIS) Division is responsible for compiling, maintaining and disseminating complete and accurate criminal history records, criminal incident and arrest reports, and statistics.^{xvii} CJIS records may be requested by an identifier search (which uses a name, date of birth and social security number) or fingerprint-based search. State criminal record reports contain identifiable descriptions and notations of arrests, detentions, indictments, criminal charges, and any disposition arising from sentencing, correctional supervision and release.^{xviii} The state allows varying levels of access to criminal record information depending on the individual or entity requesting the records and their purpose in making the request.^{xix} Individuals may request a copy of their complete criminal record report as maintained by CJIS including “closed records” such as:

- All criminal history data, including all arrests (filed or not filed charges).
- Charges that have been nolle prossed, dismissed or found not guilty in a court of law.
- Suspended Imposition of Sentence (SIS) after the probation period is complete.^{xx}

Legal Protections for Job-Seekers and Workers in Missouri

Although finding work with a criminal record remains an uphill battle, state and local laws can help individuals with criminal histories overcome these barriers in Missouri.

- **Missouri Employment Laws**

In April 2016, Governor Jay Nixon issued an Executive Order, prohibiting state agencies, departments, commissions and boards from asking about criminal history in an initial employment application “unless a criminal history would render an applicant ineligible for the position.”^{xxi}

Several Missouri localities have enacted similar policies:

- Kansas City government agencies do not inquire about criminal history until after an applicant has been interviewed and considers the following factors when making final employment-related decisions: i) “the nature and gravity of the offense(s), ii) the time that has passed since the applicant’s conviction or release from incarceration, iii) the nature of the job sought and its relevance to the offense, and iv) all evidence of rehabilitation.”^{xxii}
- Jackson County adopted a resolution eliminating questions about criminal history from its county government job applications.^{xxiii}
- St. Louis has implemented Ban the Box for city employees and considers the specific circumstances, the nature and the date of the crime and how it affects the candidate’s qualifications for that job.^{xxiv}
- Columbia has a Ban the Box ordinance that applies to all employers—public and private—within the city limits.^{xxv}

- **Expungement**

In July 2016, Missouri Governor Jay Nixon signed a law expanding expungement in the state, which will become effective in 2018.^{xxvi} The law shortens the length of time before convictions are eligible for expungement, reducing the time from 10 years to 3 years for misdemeanors, ordinance violations, infractions or arrests for any type of offense or violation. The law also shortens from 20 years to 7 years the length of time before qualifying felonies become eligible for expungement.^{xxvii} The law broadens the list of offenses eligible for expungement to include most felonies except Class A or dangerous felony offenses, other violent offenses and those that require sex offender registration.^{xxviii}

Someone with an expunged record may answer “no” when asked by an employer about a criminal record, unless the employer is required by law to exclude candidates with certain convictions, in which case the applicant must disclose the information.^{xxix}

An employer or professional licensing authority may not automatically disqualify a candidate based on an expunged record, violation or infraction, but still may use it as a “factor for denying

employment, professional license, certificate or permit.”^{xxx} For some specific positions, however, expunged records can be grounds for automatic disqualification.^{xxxi}

Under the new law, an individual can only apply to have misdemeanor or ordinance violations expunged twice and felony convictions once in their lifetime.^{xxxii}

- **Fair Credit Reporting Act**

As described in [Section I](#), commercial background screening companies and private-sector employers who use them must follow the federal Fair Credit Reporting Act (FCRA). FCRA requires procedures to ensure accuracy as well as timely communication with employees being screened. Missouri has not passed state legislation to enhance or limit dissemination of criminal record information for civil purposes like employment or housing.

How Providers Can Help

- **Advise clients to get copies of arrest and conviction records – “RAP sheets”—when possible.** It is critical for job seekers to know exactly what is on their RAP sheet so they can describe their criminal record accurately, when asked. People with criminal histories usually do not know the disposition of certain charges or have forgotten some arrests. Finding out the details will enable them to present their criminal record to employers in the most accurate and straightforward way possible. They also may need to correct errors, which are common, *before* the employer sees them. RAP Sheets may be obtained from the Missouri State Highway Patrol, Criminal Justice Information Services (CJIS) Division, available at <http://www.msdp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html>.
- **Help clients gather evidence of rehabilitation.** Useful suggestions for how to do this are in the Legal Action Center’s “*How to Gather Evidence of Rehabilitation*”

HOUSING

- **Legal and Regulatory Barriers to Housing for Justice-Involved People in Missouri**

People with criminal records in Missouri confront a wide variety of restrictions to housing. Some of the greatest hurdles are federal statutes that apply to public and federally-assisted housing; these are described in [Section I](#). These federal laws give the Department of Housing and Urban Development (HUD), public housing authorities (PHAs), and private landlords broad discretion to deny housing to people with criminal histories and their families.

As is the case across the country, Public Housing Authorities (PHAs) and private landlords are able to set their own screening criteria. Many have flat bans against leasing to individuals convicted of a felony or other offense and do not consider evidence of rehabilitation or individually assess a housing applicant's risks or threat to others' safety.

Missouri's housing anti-discrimination law does not protect people with criminal records and explicitly states that it does not preclude discriminating against someone convicted of manufacturing or distributing illegal drugs.^{xxxiii} However, it does protect prospective renters or buyers based on other factors such as race, ethnicity and other qualities as described in the federal Fair Housing Act.^{xxxiv}

In addition, drug-related activity can result in tenant eviction, even if criminal prosecution has not or will not be commenced against the tenant.^{xxxv} However, a tenant can avoid eviction by successfully completing a drug rehabilitation program or being admitted to and continuing such a program while on probation.^{xxxvi} These individuals will usually need a legal advocate to assist with efforts to maintain their residence.

Resources

See Fisher & Phillips LLP's comprehensive review of [Labor and Employment Laws in the State of Missouri](https://www.fisherphillips.com/media/publication/5362_59761_Missouri%20State%20Law%20Booklet%20Revised%202015_.pdf), available at https://www.fisherphillips.com/media/publication/5362_59761_Missouri%20State%20Law%20Booklet%20Revised%202015_.pdf.

See the Collateral Consequences Resource Center, provides a full list and description of [Restoration of Rights](http://ccresourcecenter.org/state-restoration-profiles/missouri-restoration-of-rights-pardon-expungement-sealing/) procedures in Missouri, available at <http://ccresourcecenter.org/state-restoration-profiles/missouri-restoration-of-rights-pardon-expungement-sealing/>.

Arch City Defenders (ACD) for possible help with some criminal and civil matters. It is a civil rights law firm providing holistic legal advocacy to combat the criminalization of poverty and state violence in disadvantaged communities. Read [more http://www.archcitydefenders.org/](http://www.archcitydefenders.org/).

The Corizon Health Reentry [website](https://www.corizonreentry.com/missouri/Resource/SiteResources?categoryId=174) provides an extensive list of resources, including [housing](https://www.corizonreentry.com/missouri/Resource/SiteResources?categoryId=174), for people with criminal records navigating reentry, available at <https://www.corizonreentry.com/missouri/Resource/SiteResources?categoryId=174>.

How Providers Can Help

- **Advise clients to get copies of arrest and conviction records – “RAP sheets”—when possible.** It is critical for persons applying for housing to know exactly what is on their RAP sheet so they can describe their criminal record accurately, when asked. People with criminal histories usually do not know the disposition of certain charges or have forgotten some arrests. Finding out the details will enable them to present their criminal record to potential landlords in the most accurate and straightforward way possible. They also may

need to correct errors, which are common, *before* the landlord sees them. RAP Sheets may be obtained from the Missouri State Highway Patrol, Criminal Justice Information Services (CJIS) Division, available at <http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/crimRecChk.html>.

- **Help clients gather evidence of rehabilitation.** Useful suggestions for how to do this are in the Legal Action Center’s “*How to Gather Evidence of Rehabilitation*”

Check the Housing and Urban Development website to identify any special housing programs and funding that are available in Missouri to support individuals with justice-involvement and/or behavior and mental health disorders.

EDUCATION

Justice-involved individuals in Missouri, like the rest of the country, face a number of hurdles when they want to pursue higher education. These hurdles are usually financial restrictions or overcoming a restrictive admission processes.^{xxxvii}

If individuals are convicted of a crime while receiving federal financial aid for post-secondary studies, such as Pell Grants, they are prohibited from continuing to receive this aid. There are no statewide policies in Missouri protecting individuals with criminal records when applying for admission to higher education or for financial aid. Public and private institutions of higher learning in Missouri have free reign to refuse to admit applicants because of their criminal histories. Moreover, questions about criminal records during the application process often discourage justice-involved persons from submitting an application.^{xxxviii}

ⁱ MO. ANN. STAT. § 314.200 (West 2016)

ⁱⁱ MO. ANN. STAT. § 43.540 (West 2016)

ⁱⁱⁱ S.B. 635, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), § 11(3); Mo. Ann. Stat § 192.2495 (West 2017).

^{iv} MO. ANN. STAT. § 168.133 (West 2011) (requiring school districts to run a criminal background check on anyone “authorized to have contact with pupils” including “administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses” as well as school bus drivers).

^v MO. ANN. STAT. § 210.025 (West 2016).

^{vi} MO. ANN. STAT. § 630.170 (West 2013).

^{vii} MO. ANN. STAT. § 630.170 (West 2013).

^{viii} Mo. Ann. Stat. § 192.2490 (West 2016).

^{ix} MO. ANN. STAT. § 324.029 (West 2008).

^x MO. ANN. STAT. § 314.200 (West 2016).

^{xi} MO. ANN. STAT. § 314.200 (West 2016).

^{xii} MO. ANN. STAT. § 67.1819 (West 2016)

^{xiii} MO. ANN. STAT. § 324.267 (West 2016) (“Any applicant for a license to operate a massage business or a license to practice massage therapy shall authorize the board to conduct a criminal background check.”).

^{xiv} 20 CSR 2233-2.030.

^{xv} 20 CSR 2235-1.030.

^{xvi} S.B. 635, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), § 7, 8.

^{xvii} MO. ANN. STAT. § 43.500 (West 2009)

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- ^{xviii} *Criminal Justice Information Services FAQs*, MISSOURI STATE HIGHWAY PATROL, <http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/faqs.html>.
- ^{xix} MO. ANN. STAT. §§ 43.507, 43.531, 43.543 (West 2017); *Criminal Justice Information Services FAQs*, MISSOURI STATE HIGHWAY PATROL, <http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/faqs.html>.
- ^{xx} *Criminal Justice Information Services FAQs*, MISSOURI STATE HIGHWAY PATROL, <http://www.mshp.dps.missouri.gov/MSHPWeb/PatrolDivisions/CRID/faqs.html>;
- ^{xxi} Exec. Order 16-04 (April 11, 2016), <https://www.sos.mo.gov/library/reference/orders/2016/eo4>.
- ^{xxii} Kansas City Committee Substitute for Ordinance No. 130230, as Further Amended (April 14, 2013), <http://cityclerk.kcmo.org/liveweb/Documents/Document.aspx?q=1GacLjTrkbEstxBLwpToOZZ9ttTFatKgBEhJKwT6kCxOKxyyhr73qCjeENbqZoLK>.
- ^{xxiii} Mike Hendricks, *Jackson County job applicants no longer required to disclose criminal history*, THE KANSAS CITY STAR, (Nov. 7, 2016), <http://www.kansascity.com/news/politics-government/article113137963.html>.
- ^{xxiv} OFFICE OF THE MAYOR, CITY OF ST. LOUIS, ST. LOUIS-MO.GOV, *City of St. Louis Bans the 'Box' on Job Applications*, (October 14, 2014), <https://www.stlouis-mo.gov/government/departments/mayor/news/ban-the-box.cfm>.
- ^{xxv} City of Columbia Ordinance No. 22286, CODE OF ORDINANCES CHAPTER 12 (Oct. 20, 2014), https://www.municode.com/library/mo/columbia/ordinances/code_of_ordinances?nodeId=682404.
- ^{xxvi} S.B. 588, 8th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), § B.
- ^{xxvii} S.B. 588, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), at lines 109-115.
- ^{xxviii} S.B. 588, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), 22-40; JOSHUA GAINES, COLLATERAL CONSEQUENCES RESOURCE CTR, *Missouri expands expungement in a big way*, (July 20, 2016), <http://ccresourcecenter.org/2016/07/20/missouri-expands-expungement-in-a-big-way/>.
- ^{xxix} S.B. 588, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), at lines 214-225.
- ^{xxx} S.B. 588, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), at lines 206-213.
- ^{xxxi} *Id.*
- ^{xxxii} S.B. 588, 98th Gen. Assemb. 2d Reg. Sess. (Mo. 2016), at lines 236-244.
- ^{xxxiii} MO. ANN. STAT. § 213.040 (West 2016)
- ^{xxxiv} THOMAS AHEARN, EMP'T SCREENING RESOURCES, *HUD Releases Guidance on Use of Criminal Records by Housing Providers*, ESR: (May 17, 2016), <https://www.esrcheck.com/wordpress/2016/05/17/hud-releases-guidance-on-use-of-criminal-records-by-housing-providers/>.
- ^{xxxv} MO. ANN. STAT. § 441.740 (West 2016) ; MO. ANN. STAT. § 441.800 (West 2016)
- ^{xxxvi} MO. ANN. STAT. § 441.880 (West 2016)
- ^{xxxvii} CTR. FOR COMMUNITY ALTERNATIVES INNOVATIVE SOLUTIONS FOR JUST., *College Admissions Reconsidered.*, <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf.al-hist-recs-in-college-admissions.pdf>.
- ^{xxxviii} JULEYKA LANTIGUA-WILLIAMS, *'Ban the Box' Goes to College*, THE ATLANTIC, (April 29, 2016), <http://www.theatlantic.com/politics/archive/2016/04/ban-the-box-comes-to-campus/480195/>.