



Navigating Criminal Records Relief in Illinois

June 24, 2020



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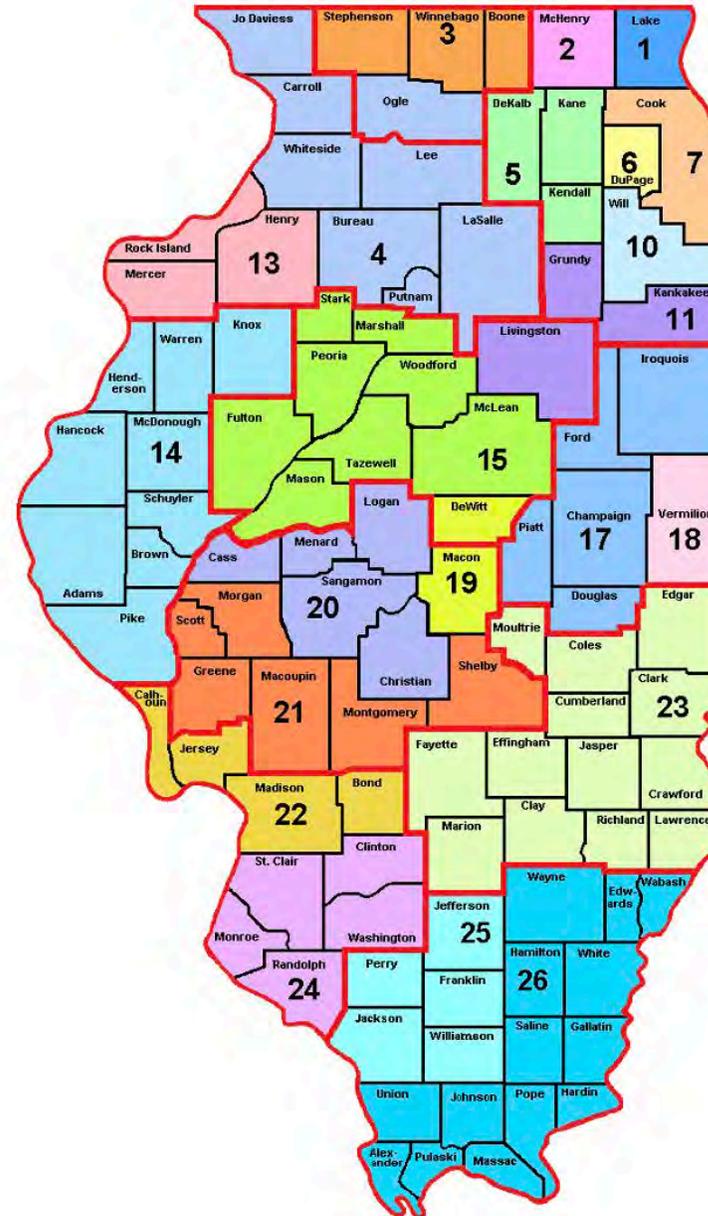
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Where is Your Local Area?







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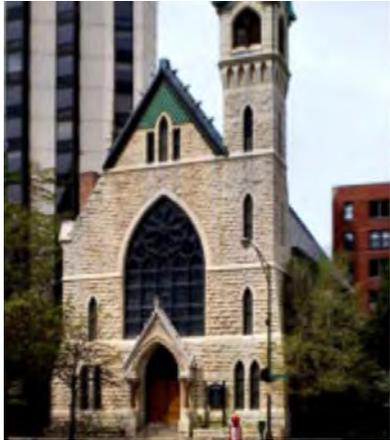


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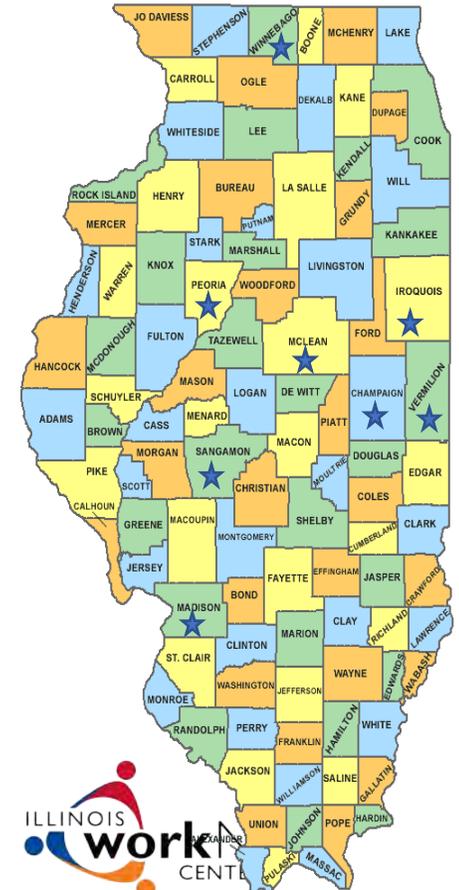
Today: Cabrini Green Legal Aid in our new home

...supporting the entire State of Illinois

1973: Ministry of LaSalle Street Church...



...supporting residents of the Cabrini Green Housing Project



Monday, April 24, 2017



CGLA Clients Are...

*...impacted by involvement
with the criminal justice system*

People facing barriers due to alleged or past criminal activity

Men, women, juveniles and
emerging adults who are
accused of committing
crimes

Men, women, juveniles and
emerging adults who have
juvenile and/or criminal
records

People under correctional control

Men, women and
juveniles, and
emerging adults who
are incarcerated, on
parole, or under
supervision



Collateral Consequences

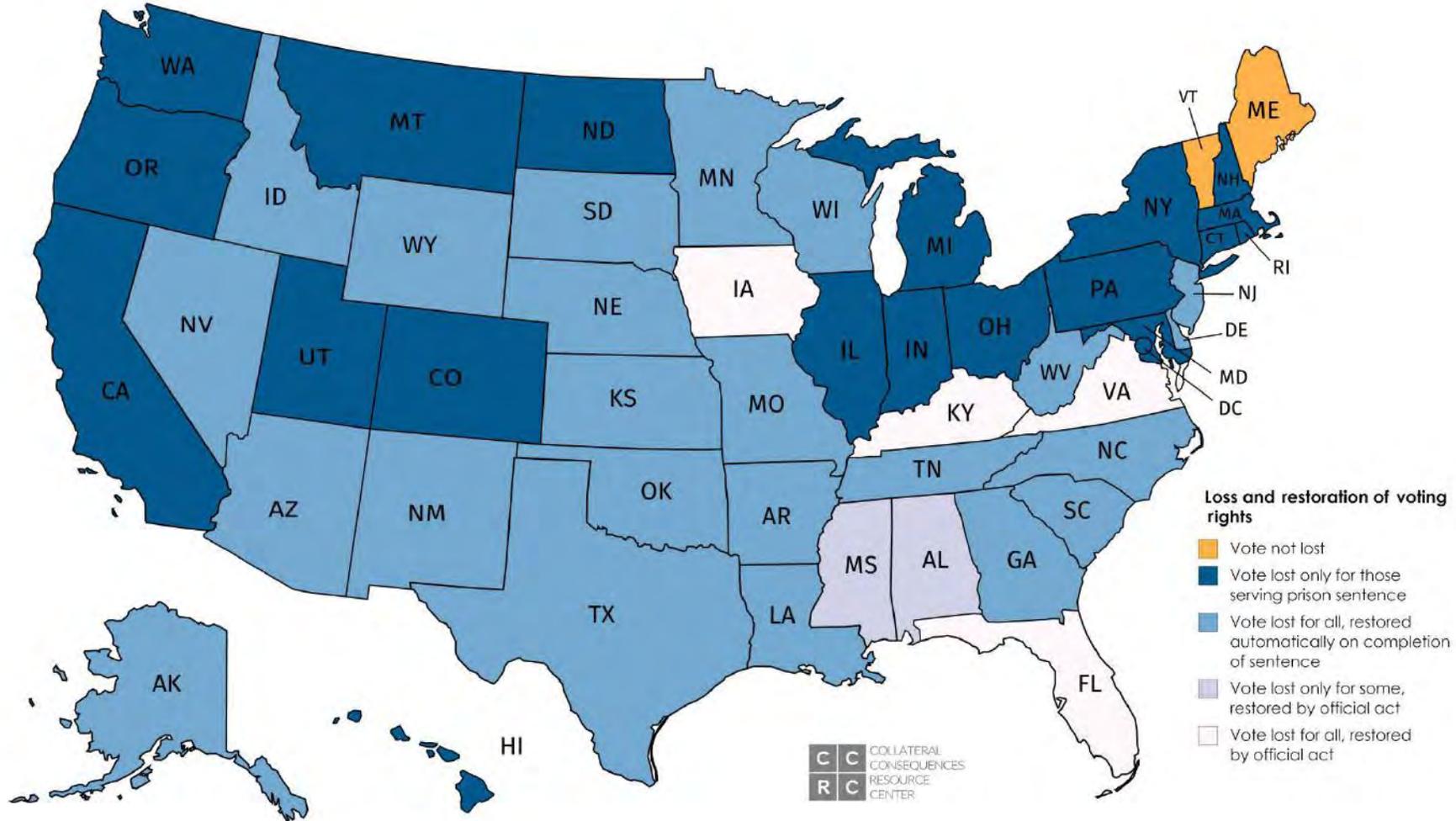
What are Collateral Consequences?



Poll 1

Monday, April 24, 2017

Voting Rights in the U.S.



Rights in Public Housing

Only **TWO** convictions bar a person from subsidized housing for life...



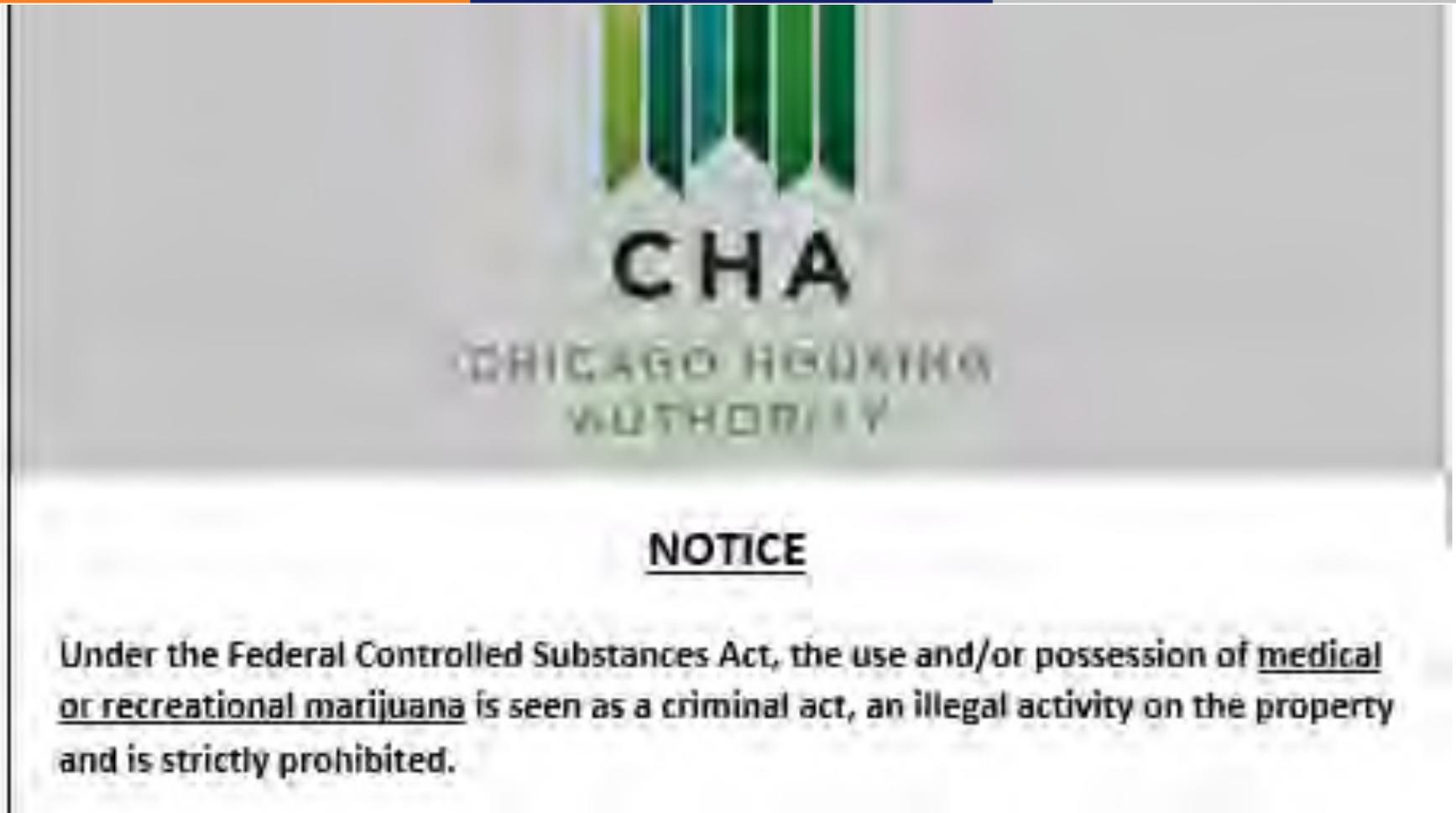
1. Registration on the Sex Offense Registry
2. Manufacturing Meth in Public Housing

Rights in Public Housing

THREE types of “criminal activity” are decided on a case by case basis:



RIGHTS IN PUBLIC HOUSING



New Policy: If someone is caught growing, possessing or distributing cannabis, the CHA lease process will consider "relevant facts on a case-by-case basis and mitigating circumstances." That would include: if the resident has a disability; the time, nature and extent of the conduct; how it will affect an entire family; and its overall impact.

<https://www.npr.org/local/309/2020/01/22/798507441/chicago-housing-authority-cannabis-policy-now-protects-residents-from-eviction>

Monday, April 24, 2017

Rights in Private Housing

Landlords **need your permission** to run a background check, and since January 1, 2020, **cannot consider** the following records:



- Arrests not leading to conviction
- Expunged & sealed records
- Juvenile records

Rights in Private Housing

If a background check shows one of the protected records, provide one of the following:

- 1) A **Court Disposition** showing it wasn't a conviction or adult record
- 2) An **Order** to expunge or seal

Both can be obtained from the Clerk's Office

Rights in Employment

Employers are also prohibited from using arrest records, juvenile records or expunged & sealed record under the Illinois Human Rights Act.

Enforcing Rights

If an employer or landlord **STILL** denies giving a person a job or housing after showing the records, **complaint can be filed within 300 days** at the



Call (312) 814-4320
to get information to
start the process

BAN^{THE}
BOX 

In Illinois, employers cannot ask on the application, “have you ever been convicted?” in certain situations.

BAN THE BOX

- ✓ Law only applies to employers with **15 or more** employees, except in Chicago.
- ✓ Does NOT apply to **employers governed by a state or federal law** that says who they can and cannot hire based on a criminal conviction.

Examples of Illinois Barriers

Park Districts (70 ILCS 1205/8-23)

- Can never work at a park district if convicted or adjudicated delinquent of a drug conviction in the last 7 years, or ever if Class X or sex crime.

Health Care (225 ILCS 46)

- Can never work in health care in an unlicensed position if convicted of any “disqualifying offense,” without a waiver from Dept. of Public Health.

Schools (105 ILCS 5/10-21.9)

- Can never work in schools – as a teacher, administrator, or volunteer – if ever convicted of a drug offense in the last 7 years or ever if a sex offense or Class X felony.

Medical Practice Act (20 ILCS 2105/2105-165)

- Any conviction for a forcible felony prohibits licensure as a licensed health care professional through the Illinois Department of Financial and Professional Regulation for a period of 5 years.

Ban the Box Enforcement

- If you see an employment application that still asks the question, **file a complaint** with the Illinois Department of Labor or Chicago Commission on Human Relations!



Fair Credit Reporting Act

Requirements for employers accessing private background checks

Must get permission

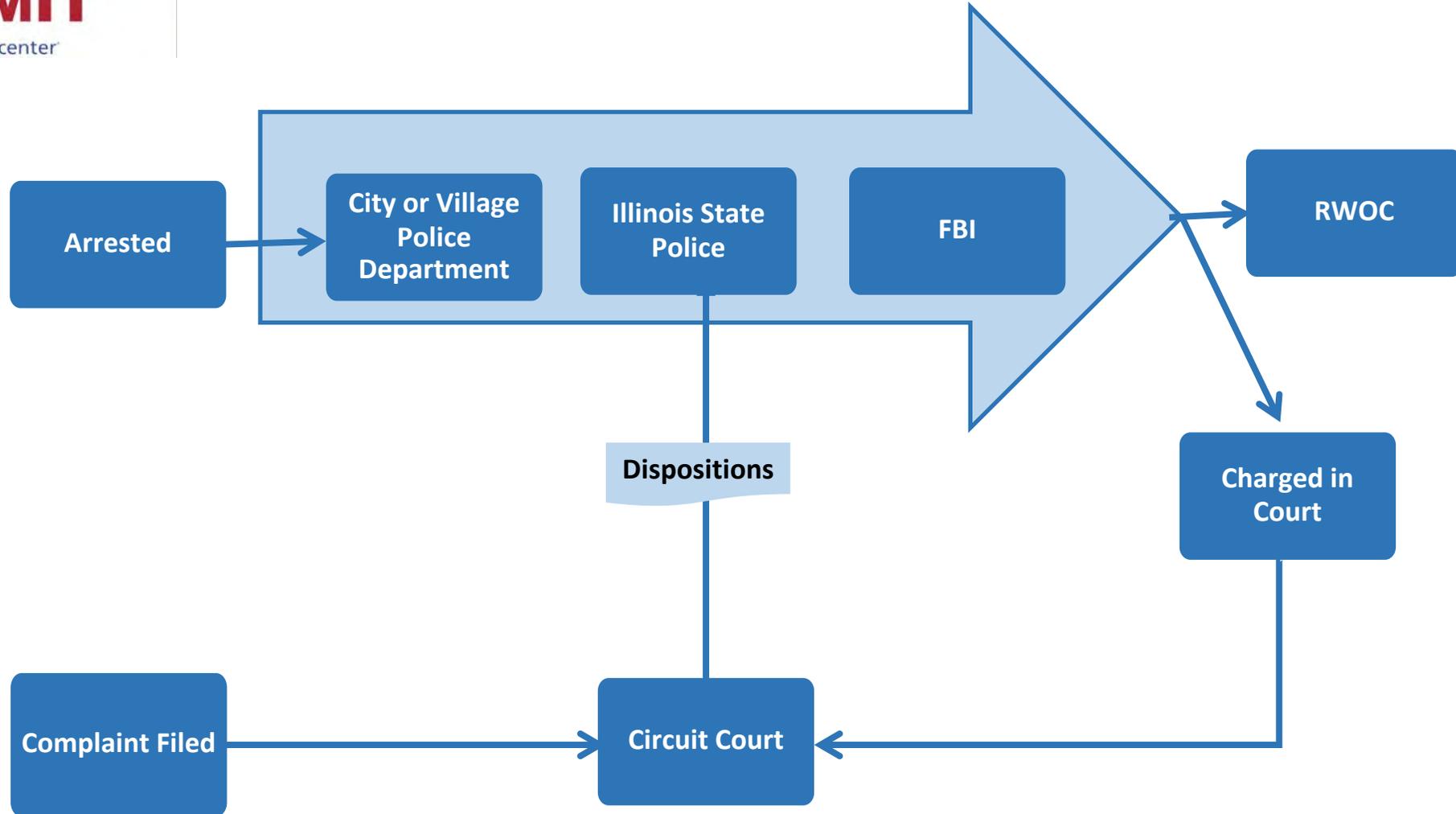
Must provide a copy if used in employment decision

Must allow for mitigation and correction before final decision

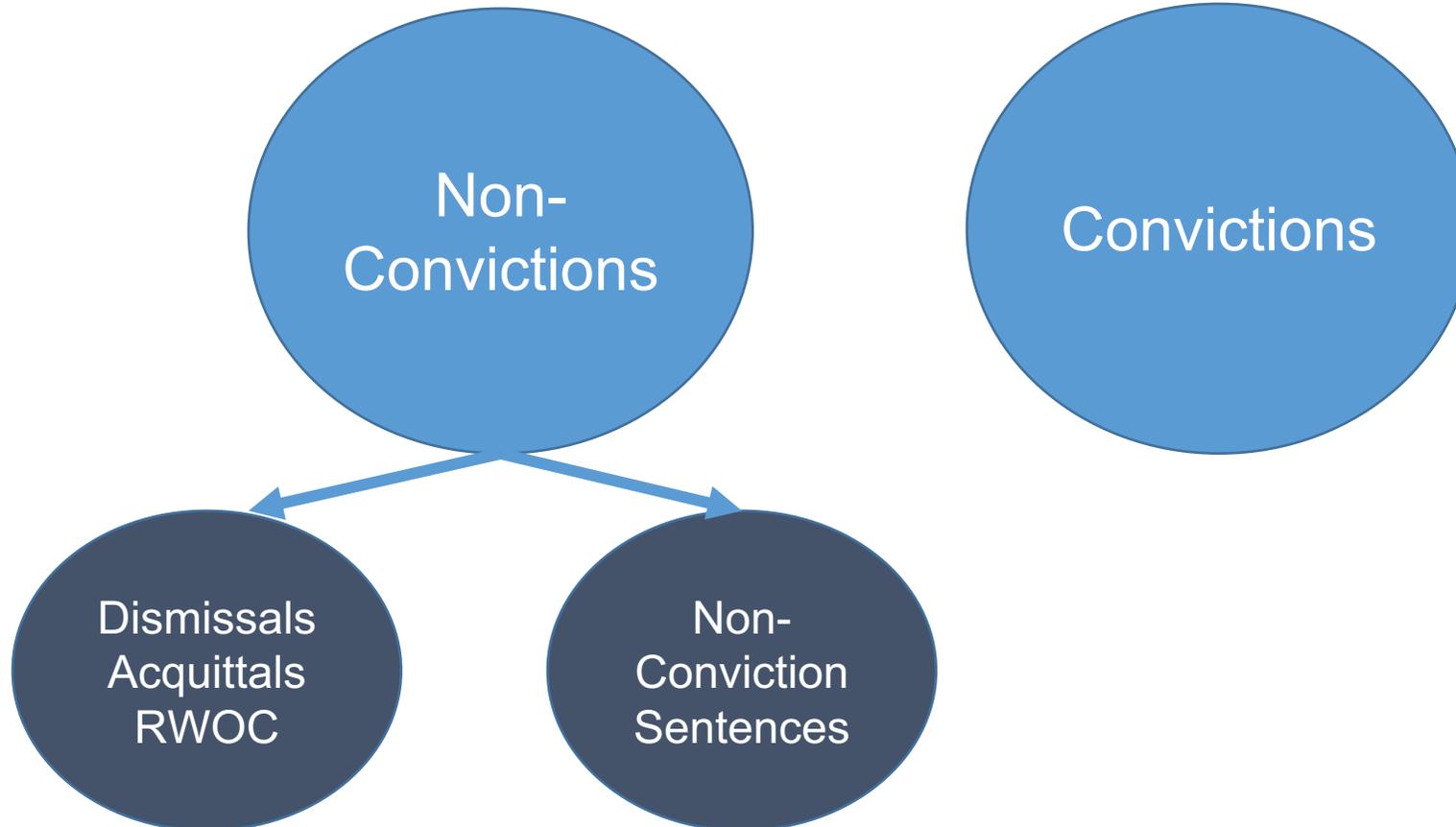
Criminal Records Relief

Monday, April 24, 2017

How a Criminal Record is Created



Dispositions



Types of Criminal Offenses

Misdemeanors	Felonies
Punishable by up to a year in jail (CCDOC)	Punishable by a year or more in prison (IDOC)
<p>There are 3 classes of misdemeanors:</p> <ul style="list-style-type: none"> • Class A • Class B • Class C <p>City/Village Ordinance Violations that are “criminal in nature” are also classified as misdemeanors</p>	<p>There are 6 classes of felonies:</p> <ul style="list-style-type: none"> • Class M (Murder) • Class X • Class 1 • Class 2 • Class 3 • Class 4

Expungement and Sealing

Eligible Non-
Convictions

Expungement

Eligible
Convictions

Sealing

The Difference? Access!



No private or public entity can see expunged records. Expunged records are only available to law enforcement in cases involving qualified probations for first-time offenders.



No private or public entity can see sealed misdemeanor convictions, dismissals or acquittals. All sealed records are available to law enforcement.



Sealed felony conviction records are available only to employers authorized by law to see them. These employers are regulated by statute and conduct fingerprint based background checks.

Expungement vs Sealing

Expunge

Expungement is only for non-convictions.

Non-Convictions

Non-conviction sentences

Dismissals, Acquittals, RWOC

Supervision

710-1410 Probation

TASC Probation

Second Chance Probation

Offender Initiative Program

Seal

As of August 2017, all misdemeanor and felony convictions are eligible for sealing, with limited exceptions.

Convictions

Jail or Prison

Probation

Conditional Discharge

Time Considered Served

Fines

Drug test required if expunging Qualified Probations or sealing felony drug convictions

Acquittals and Dismissals

Released without Charging (RWOC)

Finding of Not Guilty (FNG)

Nolle Prosequi

Stricken off with Leave to Reinstate (SOL)

Non-Suit

Finding of No Probable Cause (FNPC)

Dismissed with Prejudice (DWP)

Leave to File Denied (LFD)

Determining Eligibility

Expungement Eligibility

If a non-conviction sentence is completed satisfactorily, the case is eligible for expungement.

EXCEPT:

Supervision for:

DUI

*Reckless Driving**

Sex Offense Involving a Minor

*Unless the Youthful Offender Exception applies:
If under 25 years old when sentenced, can petition after turning 25.

Sealing Eligibility

All misdemeanor and felony convictions
are eligible for sealing!

EXCEPT:

1. Domestic Battery & Violations of Orders of Protection and Stalking No Contact Orders

2. Violations of the Humane Care for Animal Act (*Class A misdemeanor and above*)

3. Sex Crimes Under Article 11 (*except prostitution and misdemeanor public indecency*)

4. Driving Under the Influence, Reckless Driving
(*except youthful offenders defined under 20 ILCS 2630/5.2(a)(3)(A)*)

Waiting Periods

Acquittals & Dismissals
Expungement

- There is no waiting period following an acquittal or dismissal (except 160 days for SOL and 120 days for Non-Suit)

Supervision
Expungement

- 2 years from successful completion of sentence

Qualified Probations
Expungement

- 5 years from successful completion of sentence

Convictions
*Sealing**

- 3 years from completion of most recent sentence; encompasses all conviction cases

*If required to register, cannot petition for that case until off the public registry.

Waiting Period Exceptions

Waiting Period Exception

Immediate Sealing

- Arrests or charges not initiated by arrest resulting in acquittal or dismissal **with prejudice** (e.g., Nolle Prosequi)
- Must be filed with the circuit court clerk **on the same day** and **during the same hearing** in which the case is disposed.
- Upon entry of a disposition for an eligible record the defendant shall be informed by the court of his or her right to have eligible records immediately sealed and the procedure for the immediate sealing of these records.

Waiting Period Exceptions

Waiting Period Exception

No waiting period to seal a conviction if the individual earns a high school diploma, associate's degree, career certificate, vocational technical certification, bachelor's degree, or GED while serving the sentence (including parole).



Drug Tests

Petitioning to expunge a drug-related felony qualified probation or seal a drug-related felony conviction?

e.g., Possession of a Controlled Substance, Manufacture/Delivery of a Controlled Substance

A clean drug test result, dated within 30 days of filing, is required by state law.

Expunging a dismissed felony drug case or sealing a misdemeanor drug conviction?

No drug test needed.

The Cannabis Regulation and Tax Act “Minor Cannabis Offense”

“Minor Cannabis Offense” Defined

1. Section 4 (Possession)
2. Section 5 (Manufacture/Delivery; Possession with Intent to Deliver)
3. 30 grams or less
4. No penalty enhancement
 - At least 18 years of age
 - Delivered cannabis to a person under 18 who was at least 3 years his junior
 - Sentenced to prison for up to twice the maximum term
5. No count involving a “violent crime” (even if dismissed)

one gram

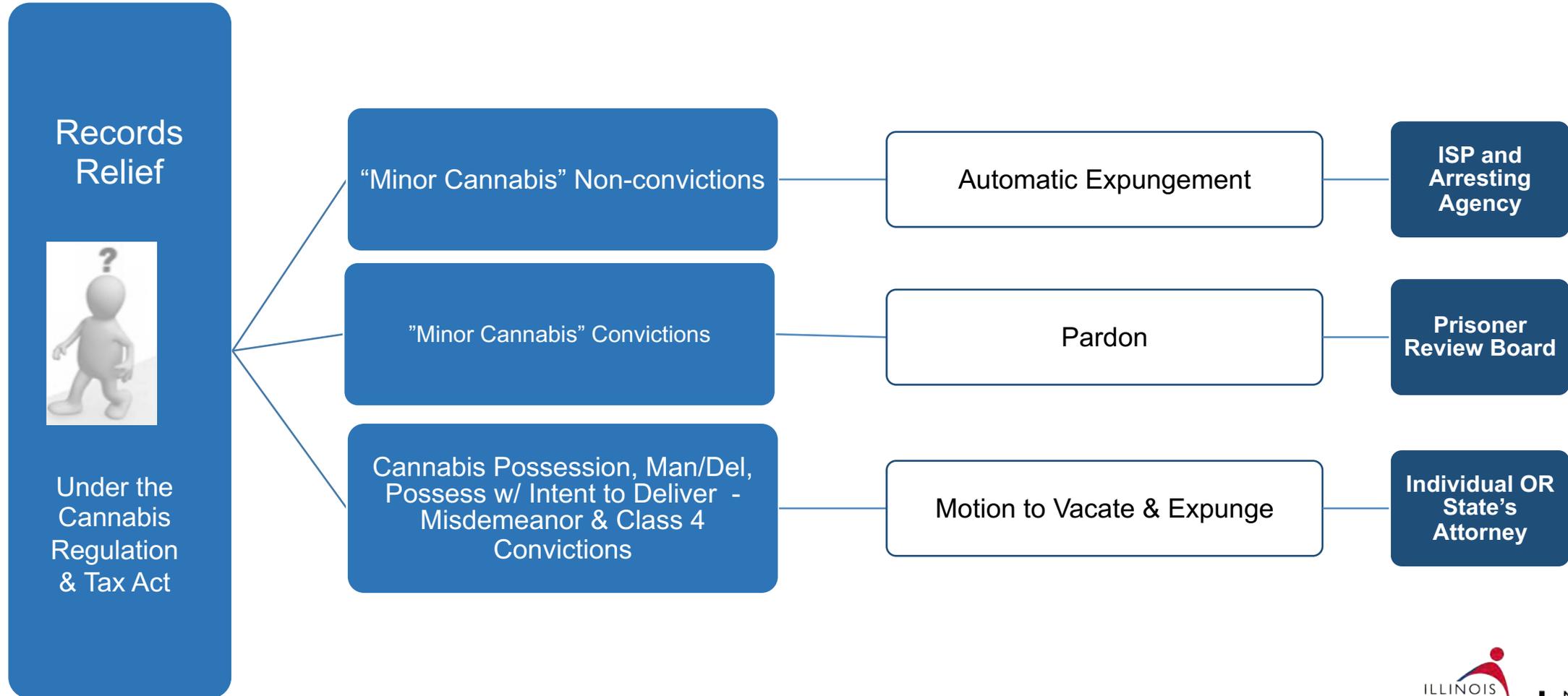


half gram

1 oz = 28.35 g
½ oz = 14g
¼ oz = 7g
⅛ oz = 3.5g
1g = 1,000 mg



Overview of the Cannabis Act



Poll 2

Monday, April 24, 2017

Sealing and Expungement Procedures

Monday, April 24, 2017

Filing Fees

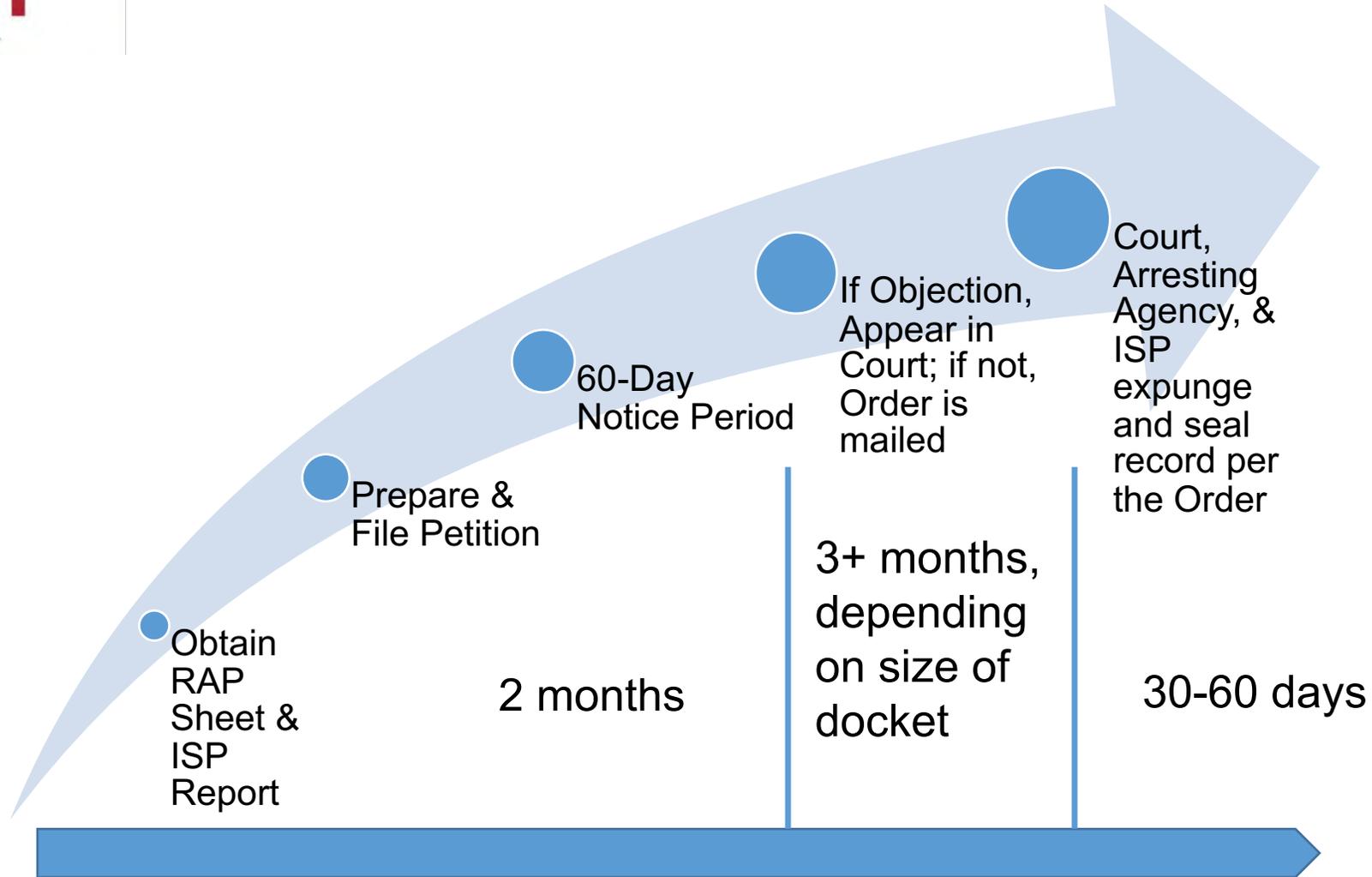
Cook County Filing Fees	
Description	Amount
Base filing fee	\$120.00
Mailing Fee: \$10.50 X 3 parties (the Illinois State Police, Chicago Police Dept., and the Corporation Counsel for the City of Chicago)	\$31.50
Certified dispositions (\$6 each for each case)	\$6.00
TOTAL	\$157.50

Filing Fees May Be Waived

2019 Poverty Guidelines (Annual)					
<u>Persons in family/household</u>	<u>Poverty Guideline</u>	Up to 125%	>125% to 150%	>150% to 175%	>175% to 200%
		125%	150%	175%	200%
1	\$12,490	\$15,613	\$18,735	\$21,858	\$24,980
2	\$16,910	\$21,138	\$25,365	\$29,593	\$33,820
3	\$21,330	\$26,663	\$31,995	\$37,328	\$42,660
4	\$25,750	\$32,188	\$38,625	\$45,063	\$51,500
5	\$30,170	\$37,713	\$45,255	\$52,798	\$60,340
6	\$34,590	\$43,238	\$51,885	\$60,533	\$69,180
7	\$39,010	\$48,763	\$58,515	\$68,268	\$78,020
8	\$43,430	\$54,288	\$65,145	\$76,003	\$86,860
>8	\$4,420	for each additional person			
Percent of Fees Waived		100%*	75%	50%	25%

*Unless court determines applicant is able to pay based on value of non-exempt assets.

The Filing Process



The Effect of Expungement and Sealing

- Searches in the clerk's system will reveal "no record," as if the cases did not occur. Files are impounded.

- Expunged records are destroyed by the arresting agency and Illinois State Police (ISP). Only "qualified probation" cases are available to law enforcement (e.g., 710-1410 probation, TASC probation).

- Sealed records are *not* destroyed by the ISP and are fully available to law enforcement.
- Only sealed felony conviction records are available to employers authorized by law to conduct fingerprint-based background checks through the ISP.

Factors Considered



Alternative Forms of Relief

Alternative Forms of Relief



Health Care
Waiver



Certificate of
Good Conduct



Certificate of
Relief from
Disability



Clemency

Where to Get Help

Where to Get Help (Cook County)

**Juvenile
Records**



**1100 S. Hamilton Ave. Chicago, IL
60612**

Where to Get Help (Cook County)



Daley Center

**Adult
Records**



Markham



Where to Get Help (COVID-19)

<https://www.cgla.net/help-desk-online>



Home

Our Team

Programs

Get Involved

Careers

Get Help

Contact Us

Donate

Records Expungement and Sealing Help

Please read [before](#) applying for help from our Help Desk at the bottom of this page

For other types of legal help, click here



Where to Get Help (Outside Cook County)

Prairie State Legal Services

<https://pslegal.org/psls-locations.asp>

Service Area Map

Select your County to view the Office serving your County.

OFFICE:
STREET:
CITY, STATE ZIP

If you live outside the area shown on this map, visit www.illinoislegalaid.org to find other legal services providers.

Where to Get Help (Outside Cook County)

Land of Lincoln Legal Aid

<https://lincolnlegal.org/locations/>





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