



Helping Justice-Involved Individuals with Mental or Substance Use Disorders, or Both: Understanding How Laws, Regulations, & Policies Affect Re-entry Opportunities

In Colorado

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COLORADO: STATE AND FEDERAL LAWS, POLICIES AND PRACTICES THAT AFFECT JUSTICE-INVOLVED INDIVIDUALS WITH MENTAL OR SUBSTANCE USE DISORDERS, OR BOTH

This report summarizes Colorado state laws, policies and practices, and relevant federal policies that promote or hinder successful re-entry for justice-involved Colorado residents, particularly those with mental or substance use disorders, or both. While there are few absolute legal bars to employment, housing, and health care that apply specifically to people with these conditions, many of these individuals have histories of criminal justice involvement. There are many state and federal policies that create obstacles to these essentials based on criminal history.

Justice-involved individuals must often meet multiple requirements that can interfere with their ability to seek and find work. Community reintegration for recently released individuals often includes, as a condition of their release, requirements that they seek housing, and if mental or substance use disorders, or both were at the center of their criminal behavior that they stay engaged in treatment services. Additionally, individuals may be required to comply with conditions made by a community supervision agency, like parole or probation. Justice-involved individuals may also have to navigate the family court system to reunite with their children or deal with child support obligations. These individuals may need additional assistance with maintaining strict schedules that could potentially conflict with a work schedule and add pressure to the stress of adjusting to work life.

Justice-involved individuals often face significant health issues, including high rates of mental or substance use disorders, or both (M/SUDs). Untreated M/SUDs among justice-involved individuals contributes to high rates of death from overdose upon release from prison, crime and recidivism. It is thus critical that these individuals have access to health care coverage and the medical, mental health and substance use disorder treatment they need when they reenter society.

As noted below, Colorado has been examining ways to improve access to Medicaid for individuals leaving the justice system. Colorado has also taken a number of steps to pass laws and formulate policies that encourage the employment of individuals with criminal histories. As noted in more detail below, while Colorado has some industry-specific restrictions on employment, it has passed laws that require employers and occupational licensing agencies to consider, among other things, the relationship between the offense and the job or license, how long ago the offense occurred, and any evidence of rehabilitation. Colorado has also enacted a “ban the box law” that delays when background checks can be run. The state, however, has not made as much effort to eliminate barriers to public and private housing.

More can be done to reduce barriers facing justice-involved individuals with M/SUD care and needs. Providers such as Drug Court-linked recovery peer and field workers, re-entry service providers that serve 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 justice-involved individuals successfully re-enter their communities and live healthy lives.

EMPLOYMENT:

OBSTACLES AND CHALLENGES FACED BY JUSTICE-INVOLVED INDIVIDUALS WHEN SEEKING EMPLOYMENT

Justice-involved individuals with mental or substance use disorders, or both are more likely to be successful in the community if they have recovery support and a job. Those who participate in job training, educational programming or other employment support services are more likely to avoid re-arrest and re-incarceration.

The relationship between employment and recidivism is complex, but having stable employment helps individuals successfully reintegrate into their communities.¹ However, the stigma associated with a criminal record, and for those with mental or substance use disorders, or both, the stigma associated with those health conditions, combined with a frequent lack of marketable skills and work experience, can make job placement difficult. Justice-involved individuals also have to overcome legal restrictions that make it difficult to be gainfully employed and earn a living wage.

Federal law that ties highway funding to driver's license suspension/revocation is also a major obstacle for individuals in recovery who want to join or re-enter the workforce. In 1992, Congress amended the Federal Highway Apportionment Act² to withhold ten percent of certain federal highway funds unless a state enacts and enforces a law revoking or suspending the driver's license of an individual who is convicted of any drug offense for at least six months after the time of conviction. States can opt out of the law by limiting the revocation or suspension to those whose drug convictions were related to driving, such as driving under the influence of a controlled substance, or to other more limited categories of offenses. However, states can also impose a longer period than the federal law's minimum six-month policy.

Barriers to employment not only hinder success for the individual, but their families, communities, and the nation also suffer. Unemployment among justice-involved workers costs the U.S. economy between \$57 billion and \$65 billion a year in lost output.³ Recidivism leads to more crime, more victims, and more strain on federal, state and local budgets.

Colorado has greatly increased the opportunity for justice-involved workers to have a second chance by requiring any state or local agency, when considering whether to issue a license or permit, to only consider whether an applicant is a person of "good moral character" at the time of application.⁴ Except in enumerated circumstances, the fact that an applicant was convicted of a felony or other offense involving moral turpitude does not, in and of itself, prevent that person from applying for a job with a government agency or for a license, certification, permit, or registration.⁵ Colorado expressly states that, "the intent of this section [of the law] is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society."⁶

While Colorado has enacted this and other laws and policies aimed at keeping people out of the criminal justice system and helping them become members of the state's workforce, there are still some federal and state laws and policies that restrict the ability of justice-involved individuals to work in specific jobs and industries. Federal laws limit employment in health

care, commercial transportation, insurance, financial and other sectors. Colorado state law also imposes criminal record restrictions on certain jobs and occupational licenses.

Colorado Industry-Specific Restrictions on Employment Licensing

Many laws and regulations restrict the ability of justice-involved individuals to work in specific jobs and industries. The American Bar Association reports that approximately 32,000 laws specific to occupational and business licensing include provisions for considering criminal records.⁷ For example, federal laws:

- Bar many people with certain criminal records from working in the health care industry.⁸ This applies to workers with a wide range of convictions, including convictions for most drug-related offenses. For some offenses, the law requires permanent mandatory exclusions from employment in health facilities that participate in federal health care programs.⁹ These barriers are not limited to specific positions. A person with a past misdemeanor drug conviction, for example, could be prevented from working in a maintenance job on the grounds of a health facility.
- Prevent many people with certain criminal records from working in commercial transportation,¹⁰ finance,¹¹ and insurance,¹² among other fields. Generally, these restrictions apply to a variety of crimes, restrict employment for decades or longer, and make it difficult to receive an exemption.

Since most criminal record restrictions are created by statute or regulation, each year there is a chance that a new federal or state restriction will be adopted. Very often these types of restrictions are created in response to a public crisis or tragic event. For example, at the height of the foreclosure crisis, Congress enacted a minimum standard for state-licensed loan originators. This categorically prohibits licensing any individual with any felony conviction or plea in the past seven years.¹³

While many federal and states laws and regulations impose restrictions on hiring people with criminal histories in specific industries, it is critical to note that some of these barriers can be overcome. Moreover, they do not apply to everyone. Workforce development intermediaries and legal service providers can help people overcome some of these hurdles.

The Colorado Division of Professions and Occupations oversees the licensing operations of forty-five licensing boards that provide oversight of more than fifty industries and professions. Colorado, like other states, has strict prohibitions regarding the eligibility of individuals with conviction records working as peace officers or working or volunteering with vulnerable populations. Vulnerable populations include children, the elderly, or anyone susceptible to abuse or mistreatment because of the individual's circumstances, “including but not limited to the individual's age, disability, frailty, mental illness, developmental disability, or ill health.”¹⁴

In 2012, Colorado enacted a “ban the box” law that included provisions that require occupational licensing agencies to conduct individualized assessments of licensing candidates. The agency, when determining if a conviction record should disqualify a candidate, must consider:

- (1) the nature of the conviction;

- (2) the relationship of the conviction to the job;
- (3) the applicant's rehabilitation and good conduct; and
- (4) time elapsed since conviction.¹⁵

Licensing boards may not consider arrests that did not lead to conviction or disqualify a candidate based on charges that were dismissed pursuant to a deferred judgment, or expunged, sealed, or pardoned convictions, unless they first consider the four factors above and conclude there are grounds to disqualify the applicant.¹⁶ This law does not apply where a statute bars licensing based on criminal convictions. It is important to note that the agencies may use any information that an applicant voluntarily discloses. Therefore it is critical that individuals with criminal records understand what they are or not required to disclose to avoid the disclosure of more information than is required by law or that may show up on a background screen.¹⁷

Licensing boards will conduct criminal record checks to determine if they must deny, revoke, or suspend the issuance of a license. Many licensing boards rely on applicant self-disclosure about criminal records. However, they will also require the applicant to authorize a fingerprint-based background check through the Colorado Bureau of Investigation (CBI), the central repository of criminal history arrest records for the State of Colorado.

In the interest of ensuring that additional and unjustified criminal record barriers are not erected, the state requires that “any new proposal to regulate a new profession or occupation must include “a description of any anticipated disqualifications on an applicant for licensure, certification, relicensure, or recertification based on criminal history and how the disqualification serves public safety or commercial or consumer protection interests.”¹⁸ The General Assembly also reviews the actions of regulatory agencies to determine whether the agency, through its licensing or certification process, imposes any disqualifications that do not serve public safety or commercial or consumer protection interests.¹⁹ The Department of Regulatory Agencies is required to prepare and submit an analysis of its data that shows the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification.²⁰ This process allows the public to also stay aware of the actions of the boards and determine if they are allowing justice-involved individuals to have true second chances in the state.

Background Screens

Nationally, unemployment among justice-involved individuals is as high as 60 percent and may be even higher during recession years.²¹ One of the most important hurdles to getting a job is having a “RAP sheet” (record of arrest and prosecution), also known as a “criminal record.” A Society for Human Resource Managers (SHRM) survey found that nearly 90 percent of employers conduct criminal history checks on some or all employees.²² The proliferation of employment background screening has greatly increased the likelihood that prospective employers will learn about an applicant's criminal history. Employers not only ask about criminal history information on applications and in interviews, they obtain criminal records from various outside sources depending upon the type of job sought. Some employers get direct access to state criminal justice agency records and/or Federal Bureau of Investigation (FBI) records. In addition, specific federal agencies conduct background checks for a number of

professions and licenses. However, most private employers obtain criminal record information from the hundreds of commercial background screening companies that collect public information from various sources to make up a criminal record report. As a result of these background checks, many justice-involved job seekers lose the opportunity to be fairly considered for employment for several reasons:

- Criminal record reports are notoriously inaccurate or incomplete. Mistakes are rampant, including the improper inclusion of records that should have been sealed or expunged and unavailable for scrutiny by employers.
- Many employers are not well-versed in reading those records or assessing the potential risks for employment purposes.
- Many employers disproportionately fear negligent hiring liability, workplace violence, theft, or bad publicity if they hire a worker with a past criminal history.

Some justice-involved individuals will need additional support to overcome these challenges. They may, moreover, need guidance about how to challenge or seek an appeal of a denial for employment or occupational licensing.

Sources of information: The Colorado Bureau of Investigation (CBI) provides an on-line name-based search function that allows anyone to obtain Colorado arrest information. A criminal record report released by this method will not include sealed or juvenile records, which are not accessible to the public. While Colorado is an “open records” state, it does require anyone that requests information to affirm that the information will not be used for monetary gain. The fact that CBI records are essentially open and available to the public for any reason or purpose makes overcoming the stigma of a criminal conviction difficult.

As noted above, some employers are prohibited under federal and state law or regulation from hiring individuals with certain criminal records, and are thus required to conduct criminal background screens before hiring people for certain positions or occupations. There are three agencies—the Department of Human Services, Department of Public Health & Environment, and Department of Education—listed as designated authorized agencies that serve as a point of contact for criminal history information for qualified entities that are interested in determining whether an employer, employee, applicant or other “provider” has been convicted of, or is under pending indictment for, a crime that bears upon the person’s fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.²³

Legal Protections for Job-Seekers and Workers in Colorado

While Colorado offers some legal protections against discrimination for job seekers with criminal records, there is no federal anti-discrimination law that explicitly protects people from being unreasonably excluded from employment based on their criminal records alone. The only federal anti-discrimination protection for individuals with criminal records is related to race-based discrimination. The Equal Employment Opportunity Commission (EEOC), the agency

charged with enforcing federal anti-discrimination law (Title VII of the Civil Rights Act of 1964) has issued guidance to employers on the use of criminal records in hiring decisions. Its latest guidance, issued in 2012, says that hiring policies that automatically disqualify people with criminal histories may disproportionately affect people of color and therefore violate Title VII.²⁴

The EEOC tells employers to assess whether an applicant (or incumbent employee) has a record of rehabilitation, one that indicates there is no foreseeable risk that the person would commit acts harmful to the employer's customers, clients, or workforce. According to the agency's guidance, the following factors should be considered:

- The facts or circumstances surrounding the offense or conduct.
- The number of offenses for which the individual was convicted.
- Age at the time of conviction, or release from prison.
- Evidence that the individual performed the same type of work, post-conviction, with the same or a different employer, with no known incidents of criminal conduct.
- The length and consistency of employment history before the offense or conduct.
- The length and consistency of employment history after the offense or conduct.
- Rehabilitation efforts after the offense, e.g., education/training.
- References from former employers, particularly from post-offense employment.
- Character references and any other information regarding fitness for the particular position.
- Whether the individual, since the latest offense, has been bonded under a federal, state, or local bonding program.²⁵

Like other employers, federal agencies rely on criminal records as part of their review of potential employees. Under Office of Personnel Management (OPM) regulations, federal agencies are required to follow the U.S. Equal Employment Opportunity Commission's (EEOC) guidance on the factors employers must consider in order to comply with Title VII of the Civil Rights Act (described below). However, it has not always been clear to job seekers how different federal agencies use criminal records for employment purposes. On November 2, 2015, the federal Administration announced that OPM would take action where it could to modify its rules and delay inquiries into criminal history until later in the hiring process and it did.²⁶ Federal agencies may not inquire about an applicant's criminal or credit history unless and until a conditional offer of employment is extended. Agencies that must determine qualification requirements earlier in the hiring process must request an exception from the OPM that is only granted when the agency demonstrates specific job-related reasons why the agency would need to evaluate an applicant's criminal or adverse credit history before extending a job offer. OPM considers such factors as, but not limited to, the nature of the position being filled and whether a clean criminal history record would be essential to the ability to perform one of the duties of the position.²⁷

Colorado on the other hand, has codified employment standards for public employment and occupational licensing in the state.

Colorado Employment Laws

In May 2012, Colorado enacted a “ban the box” law that prohibits background checks of applicants until the state or local agency has determined that the candidate is a finalist or makes a conditional offer of employment.²⁸ Agencies may not use arrests that did not lead to conviction as a reason to deny or withdraw an offer. They also may not disqualify a candidate based on charges that were dismissed pursuant to a deferred judgment or expunged, sealed, or pardoned convictions unless they first consider the four factors listed below and conclude there are grounds to disqualify the applicant.²⁹ The agency, when determining if a conviction record should disqualify a candidate, must consider:

- (1) the nature of the conviction;
- (2) the relationship of the conviction to the job;
- (3) the applicant’s rehabilitation and good conduct; and
- (4) the time elapsed since conviction.³⁰

In May 2018, a bill was signed into law to expand the factors to be considered for employment and licensing to include if a court has issued an order of collateral relief specific to the credential sought by the applicant; whether there is a direct relationship between the conviction and the duties and responsibilities, if there is any bearing on the applicant’s fitness or ability to perform one or more of the duties and responsibilities, and whether the duties could place others in vulnerable position. It also authorized a division, board, or agency of the department of regulatory agencies issue a conditional license to that individual.³¹

In addition to state protections, Denver has instituted its own legal protections for job seekers. In July 2016, Mayor Michael B. Hancock issued Executive Order No. 135, “The Use of Background Checks in Hiring and Employment Decisions,” that removed the question about criminal records from City and County job applications. Section 3.1.1 prohibits conviction history inquiries until the applicant has been extended a conditional offer of employment (with certain exceptions). The City and County already limited agency consideration of arrests that did not lead to conviction and required agencies to consider the following factors concerning convictions: (i) the nature of the conviction, (ii) existence of a “strong correlation” between the conviction and job sought, (iii) the number of convictions, (iv) the recentness of convictions, and (v) any evidence of rehabilitation.³²

Colorado has addressed employer liability concerns about hiring individuals with criminal histories. The state limits employer liability exposure by preventing the introduction of an employee’s criminal record in a civil action for negligent hiring if the nature of the criminal record does not bear a direct relationship to the facts of the cause of action.³³ The legislative declaration accompanying this provision states that “it is necessary and appropriate for the General Assembly to reduce unnecessary barriers to employment for persons with a criminal conviction and thereby promote economic opportunity, poverty reduction, and public safety in the state of Colorado.”³⁴ Information about an employee’s criminal history will not be included

in a case where the person's record has been sealed, if he or she has received a pardon, if the arrest or charge did not result in a conviction, or if the individual received a deferred judgment at sentencing.³⁵ Colorado also prohibits employers from having blanket bans against the hiring of justice-involved workers. Job ads may not advertise a position with a statement that a person with a criminal record may not apply. The only exception is if there is a law that expressly prohibits the hiring of someone with a conviction.³⁶

Moreover, in January of 2014, Colorado's Amendment 64 went into effect, making it legal for adults 21 and over to use, possess, purchase and grow marijuana for recreational use. However, under Amendment 64, public and private employers are still able to drug test employees. Amendment 64 explicitly states that, "Nothing in this section is intended to require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale or growing of marijuana in the workplace or to affect the ability of employers to have policies restricting the use of marijuana by employees."³⁷ Marijuana remains illegal under federal law and in January 2018, U.S. Attorney General Jeff Sessions rescinded previous federal guidance to encourage individual U.S. Attorneys to determine how aggressively to enforce federal law related to marijuana in their jurisdictions. The differences in federal and Colorado law related to marijuana have created some uncertainty about how the state and federal laws interact. It is important for service providers working with justice-involved individuals to understand the requirements of and interplay between Colorado and federal marijuana laws.

Sealing/Expungements

Justice-involved individuals frequently confront blatant employer biases and fears that keep them from job opportunities. In most cases, decisions about a worker's criminal record and its bearing on his or her suitability for employment are made without regard to the person's individual circumstances or to evidence of rehabilitation. Employers often overlook such emblems of rehabilitation as the amount of time that has passed since the last arrest, other work history, higher educational attainment, and the completion of professional or personal development programs. Therefore record clearance, the process described by the National Clean Slate Clearinghouse as removing criminal history information from easy public access is crucial to the re-entry process. The Clearinghouse notes that record clearance "may provide people with an opportunity to put their pasts behind them."³⁸ Sealing and expungement relief are the mechanisms that address criminal record access and dissemination policy in a state.

Colorado has made some significant revisions to its laws on sealing over the past ten years. Individuals may petition the court to seal arrest records that did not result in conviction for which the person completed a diversion agreement, was not charged, was acquitted, or the charges were dismissed.³⁹ The court is required to advise a defendant of the availability of this relief.⁴⁰ The process for sealing non-conviction records was expedited when the law was amended in 2016 to allow attorneys to make a motion to seal a case in open court at time of disposition.⁴¹ Individuals who have suffered the consequence of mistaken identity and have not, in reality, had charges filed against them may have their record expunged, a process that allows the record to be

permanently destroyed. Law enforcement has to initiate the petition within 90 days of determining that an arrest was as a result of mistaken identity. No one will get access to the record after it is expunged and the individual may deny the fact of the arrest.⁴²

Individuals convicted of select offenses involving controlled substances after 2008 may apply for a record to be sealed in some circumstances. There are waiting periods that range from one year to ten years before a petitioner may apply based on the date of the conviction and the classification of the offense(s).⁴³ The filing fees associated with a sealing application could serve as a barrier for this remedy. A filing fee of \$200 is charged over and above the normal fee required to file a sealing motion.⁴⁴

Legislation was also passed to try to help individuals convicted of felony drug offenses that are ineligible for sealing to have other opportunities to mitigate the negative consequences of having a felony conviction. In July 2013, a new law went into effect to allow persons convicted of less serious felony drug offenses with no more than one prior conviction to request that their convictions be vacated and reduced to a misdemeanor upon completion of probation.⁴⁵ These records are often referred to as “wobblers.” Individuals convicted of public transportation fare evasion or underage possession or consumption of alcohol or marijuana may also apply to have their records sealed, as well as victims of human trafficking convicted of several types of offenses. Convictions for certain misdemeanor traffic offenses committed by commercial drivers⁴⁶ and sex offenses are ineligible for expungement.

As of August 2017, individuals may petition any district court that has a record of a misdemeanor marijuana use or possession conviction to seal the record.⁴⁷ In 2012, the State decriminalized misdemeanor marijuana offenses. Individuals convicted of other petty offenses and municipal violations, including violations not related to domestic violence in some circumstances, may request their records be sealed after a three-year waiting period, as long as they are not charged with or convicted of a felony or misdemeanor during this time period.⁴⁸

Fair Credit Reporting Act

Commercial background screening companies, also known as consumer reporting agencies (CRAs), and the private-sector employers that use them, are regulated under the Federal Fair Credit Reporting Act (FCRA). Among other things, this law requires the screening companies and/or employers to:

- Get written permission from the applicant/employee before obtaining a background report.⁴⁹
- Follow reasonable procedures to ensure accuracy of the information reported about the applicant/employee.⁵⁰
- Provide the applicant/employee with pre-adverse action notice before taking adverse action (e.g., not hiring the person) based on information in the report, which includes

giving the applicant/employee a copy of the report and a summary of the his or her rights under FCRA.⁵¹

Under FCRA, both employers and consumer reporting agencies can be taken to court if the agency reports inaccurate information in a negligent or willful manner. Also, many states have their own State FCRA laws that may offer additional protections for the subject of the background check. Colorado prohibits commercial reporting agencies from reporting records of arrest, indictment or conviction more than seven years predating the date of disposition, release from incarceration or from parole except if the individual is reasonably expected to receive a salary equal to or higher than \$75,000 in which case the seven-year restriction does not apply.⁵²

In Colorado, most criminal record screens are completed using CBI records and the agency can report any and all adverse information with any time frame. The CBI is not considered to be a consumer reporting agency and are not bound by any federal or state reporting mandates.

Certificates: Evidence of Rehabilitation

Although individuals with criminal records may be able to fulfill competency requirements through training, experience, or education, the character component creates a more difficult obstacle. Under many licensing laws, a felony conviction is an automatic disqualification. In other instances, a felony conviction is evidence of the lack of “good moral character” which may also be a disqualifier. No matter how old their conviction history or how qualified they are for the job or license these individuals are blocked from entering those occupations. Therefore, restoration of civil rights is another critical component of the reintegration process for many individuals convicted of crimes who seek to fully participate in society. Margaret Colgate Love (2008) discusses in detail “the principal avenues to restoration available in U.S. jurisdictions:

1. The executive pardon power;
2. Judicial expungement and sealing of adult felony convictions; and
3. Laws that limit consideration of conviction in employment and licensing.”

Effective 2013, Colorado began to offer opportunities for certain individuals to receive relief from some collateral consequences of conviction through court order at sentencing. A sentencing court may enter an “order of collateral relief” when imposing non-prison sentences to “relieve a defendant of any collateral consequences of the conviction, whether in housing or employment barriers or any other sanction or disqualification that the court may specify, including but not limited to statutory, regulatory, or other collateral consequences that the court may see fit to relieve that will assist the defendant in successfully completing probation or a community corrections sentence.”⁵³ The relief cannot ease any collateral consequences imposed by law for licensure by the Department of Education or employment with the judicial branch, the Department of Corrections, Division of Youth Corrections in the Department of Human Services, or any law enforcement agency in the state. The court can enlarge or limit the relief that is granted.

HOUSING: OBSTACLES AND CHALLENGES THAT JUSTICE-INVOLVED INDIVIDUALS FACE WHEN SEEKING HOUSING

Over 95% of individuals who are incarcerated in state prisons eventually return to their communities.⁵⁴ Whether they are able to be productive and contributing members of their communities depends in large part on their ability to meet their most basic needs, including having a place to live.

As in the employment context, there is no explicit federal anti-discrimination law that protects justice-involved individuals and their families from being excluded from housing. The only federal anti-discrimination protection for justice-involved individuals is related to race-based discrimination (see Department of Housing and Urban Development (HUD) guidance, below). Further, the majority of states and localities permit criminal record-based restrictions by landlords, unless the restrictions are based on race, color, religion, national origin, sex, disability, or familial status.

Most Public Housing Authorities (PHAs) and many private landlords get criminal record reports as a routine part of tenant screening. Like employers, few PHAs and private landlords are trained on how to review criminal record information, much less obtain relevant information that may signal rehabilitation and the potential of applicants to be good tenants.

These tenant screening reports have dramatic consequences for access to housing. For example, the availability of automated reports has significantly expanded the universe of landlords conducting such checks. In addition, these reports often improperly report information about expunged or sealed records, or contain misleading or inaccurate information that is based on incomplete case disposition records.

Across the country, PHAs and private landlords are able to set their own screening criteria, and many have flat bans against leasing to individuals convicted of a felony or other offense, without any individualized assessment of the risks or threat to safety from housing applicants, and without consideration of evidence of rehabilitation.

Justice-involved individuals in Colorado 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 federal laws give HUD, PHAs and private landlords' broad discretion to deny housing to justice-involved individuals and their families.

Federal housing laws and regulations contain specific housing restrictions for justice-involved individuals, including those with criminal histories related to controlled substances:

- People with convictions for producing methamphetamine in public housing or federally-assisted housing are permanently excluded from living in public or federally-assisted housing.⁵⁵

- Any tenant who has been evicted from public or federally-assisted housing because of drug-related criminal activity is ineligible for public or federally assisted housing for three years.⁵⁶
 - Exceptions: the housing provider has the discretion to shorten the three-year period if the person successfully completes a rehabilitation program approved by the local housing provider, “which shall include a waiver of [ineligibility] if the circumstances leading to the eviction no longer exist.”⁵⁷
- Any household with a member who is currently using illegal drugs or misusing alcohol or drugs in a manner that “may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents” is ineligible for public federally-assisted housing.⁵⁸ They can also be evicted if they are residing in public or federally-assisted housing.⁵⁹
 - Exceptions: The PHA or housing owner does have discretion to admit the person or family if they demonstrate that they are not currently using illegal drugs or misusing alcohol and that they have successfully completed drug/alcohol treatment, are otherwise rehabilitated, or are participating in treatment.⁶⁰
- People who have engaged in drug-related or violent criminal activity within a “reasonable” amount of time in the past are excluded from public housing. There is no current guidance in the law about how much time is considered “reasonable.”
- People who are on a lifetime sex offender registry in any state are permanently excluded.⁶¹

HUD regulations have in the past encouraged PHAs to screen out and deny admission to certain applicants with criminal histories. Fortunately, in recent years, HUD has issued guidance to try to rebut these policies. Housing providers are now encouraged to exercise their discretion to accept rather than deny justice-involved individuals.

Opportunities for Housing

There is no federal law that prohibits discrimination in housing based on a criminal record and most landlords rely on consumer reporting agencies for criminal record information and may only receive adverse information (criminal conviction information) that is less than seven years old. (See Fair Credit Reporting Act section above.) Background screening and sealing and expungement relief as discussed in the employment section above is also applicable to housing. Moreover, as noted above, Colorado offers opportunities for certain individuals to receive relief of any collateral consequences of a conviction, whether in housing or employment barriers or any other sanction or disqualification that the court may specify. (See Certificates: Evidence of Rehabilitation section above.)

HUD Guidance

In 2011 and 2012, HUD issued letters to all Public Housing Authority directors and private owners of federally-assisted housing in an effort to highlight their broad discretion to admit most justice-involved individuals and their families, and to avoid evicting them if they did not pose an unreasonable risk to the community. In November 2015⁶² and April 2016,⁶³ HUD issued guidance that warns PHAs and private landlords that blanket bans that exclude justice-involved individuals from the opportunity to secure housing violates the Fair Housing Act and may make them subject to litigation.

Other Housing Initiatives

Cities and states across the country have used multiple strategies to address homelessness among the justice-involved population. Many of the initiatives have focused on supporting the needs of justice-involved individuals by:

- Removing automatic exclusions for public housing or federally subsidized housing programs.⁶⁴
- Creating a mechanism to mitigate the collateral consequences of conviction that lifts automatic disqualification for housing because of a criminal record.⁶⁵
- Creating local anti-discrimination protections for individuals that have a criminal record including “ban the box” provisions and/or require individualized assessments of housing applications.⁶⁶
- Piloting programs that reunite families and permit previously disqualified justice-involved individuals to return to the household and get a second chance.⁶⁷

Service providers should visit the Colorado Housing and Finance Authority’s website on a regular basis to identify local housing programs that are for special populations, such as justice-involved individuals with histories of mental or substance use disorders, or both. The agency also offers information about training opportunities and news on legislative reforms that may be relevant to the justice-involved population, particularly those with mental or substance use disorders, or both.

The Colorado Second Chance Housing and Reentry Program (C-SCHARP) provides 24 months of rental assistance in combination with intensive behavioral health services for dually diagnosed parolees exiting the state prison system to homelessness. The program serves 60 participants annually with recent expansion efforts that will bring additional slots to the Colorado Springs and Denver Metro areas. C-SCHARP is a collaboration between the Colorado Department of Local Affairs Division of Housing (DOH), the Department of Corrections, and the Office of Behavioral Health and Community Mental Health Centers across the state. Referrals for the program come directly from the Department of Corrections. In the 2018 fiscal year, DOH allocated \$10 million for this program, which includes supportive housing and case management services that are specifically tailored for justice-involved individuals.

Local communities are truly responsible for creating housing solutions for its residents. For example, there are both barriers to and opportunities for housing in Boulder County. Boulder Housing Partners, the housing authority for the City of Boulder, excludes anyone convicted of a crime within the past five (5) years that involves drugs, violence, or disrupting the peaceful enjoyment of others.⁶⁸ However, the county has some programs that offer housing support to justice-involved individuals. For instance, The Reentry Initiative offers affordable housing units of various sizes to justice-involved women. The rent is \$650 per month and includes all utilities, internet, and trash services. Cable service has to be arranged by residents and at their own expense.⁶⁹ The program also helps connect women and families to other housing opportunities in the community.

The need for housing supports for the justice-involved population is increasing due to Crime Free Multi-Housing Programs that are being established across the nation. These programs encourage private landlords to immediately disqualify people with felony convictions from living in housing complexes.⁷⁰

HEALTH: OBSTACLES AND CHALLENGES THAT JUSTICE-INVOLVED INDIVIDUALS FACE WHEN SEEKING MEDICAL, SUBSTANCE USE AND/OR MENTAL HEALTH CARE

Individuals in the U.S. who are incarcerated face greater health challenges than the general population. There are ten times more individuals with mental illness in jails and prisons than in state psychiatric hospitals.⁷¹ For those incarcerated in county jail, studies have found that 64% have a mental illness and 54% suffer from a substance use disorder.⁷² Forty-three percent of individuals in federal prisons and 39% of those in state prisons have a chronic medical condition, such as hypertension, high cholesterol, diabetes and obesity, which are all risk factors for heart disease.⁷³ In comparison to the general population, 90% of individuals who are incarcerated are more likely to suffer or to have suffered a heart attack.⁷⁴ These statistics make clear the need to provide health care to justice-involved individuals. The Colorado Department of Corrections (CDOC) reports that 37% of incarcerated individuals have moderate to severe mental health needs. As of June 2018, CDOC reports 73% of men and 80% of women (74% of those incarcerated in state prison system) have a history of substance use. 40% of individuals incarcerated in CDOC are age 40 and older, 6% of the total population is over the age of 60, and 30% of the prison population have medical needs.

The vast majority of justice-involved individuals also have low-incomes, with a 2013 study finding that without mass incarceration and its collateral consequences, the nation's poverty rate would have dropped by 20% between 1980 and 2004.⁷⁵ Despite this, many justice-involved individuals are not enrolled in Medicaid coverage even though they are eligible. Others are enrolled in Medicaid at the time of their arrest, but once incarcerated, their Medicaid coverage is

terminated. This often occurs even when individuals are held for only a few days. The lack of Medicaid coverage upon release makes it difficult, if not impossible, for many people to quickly obtain or regain access to care, including substance use and/or mental health services. In 2008, Colorado passed a law, SB 08-006, to suspend, rather than terminate Medicaid during incarceration.⁷⁶ The state is working to implement this policy to ensure that eligible justice-involved individuals are enrolled in Medicaid upon their release.

Opportunities for Health Care

Colorado decision-makers are developing innovative policy and practice solutions to better help the criminal justice and health systems work together to improve health care access for justice-involved people. These innovations have tremendous promise to improve health and criminal justice outcomes and to save states money.

Colorado's single state agency (SSA) for substance use services is located in the state's Department of Human Services' Office of Behavioral Health.⁷⁷ The Department of Human Services oversees the state's Medicaid program and administers many federal- and state-financed programs for underserved individuals. A number of these programs, including several funded by SAMHSA, are specifically intended to meet the mental and substance use disorder (M/SUD) care needs of justice-involved individuals. Although the availability of SUD services and medications can be very limited for people incarcerated in prisons and jails, federal and Colorado policies have specifically sought to improve SUD and mental health care access for justice-involved individuals in the community.

Over the past number of years, Colorado has done significant work to improve health care access to justice-involved individuals. Following passage of the federal Affordable Care Act in 2010, Colorado expanded its Medicaid population to include individuals with incomes at or below 138 percent of the federal poverty line. The state, through the Colorado Department of Health Care Policy and Financing, has done considerable work to ensure that justice-involved individuals are enrolled in Medicaid upon their release and connected to care. The state has developed a number of resources on connecting justice-involved individuals with coverage and care, including several Memoranda of Understanding between Departments of Human Services and Sheriff's Departments on Medicaid assistance, eligibility determinations, and consumer navigation services.⁷⁸

In addition to the state's work on Medicaid enrollment for justice-involved individuals, Colorado is working to redesign its Medicaid system. The state has recently sought approval from the Centers for Medicare and Medicaid Services (CMS) for a number of demonstration waivers aimed at improving access to M/SUD services and medications, including for justice-involved individuals. One of these is a section 1915(b) waiver, the Community Behavioral Sciences Program and Special Connections Substance Abuse Treatment Program.⁷⁹ This waiver program includes: rehabilitative services; targeted case management, counseling, psychiatric treatment, physician services, group and family psychotherapy, and medication assisted treatment.

Special Connections is a substance use disorder treatment program jointly administered by the Colorado Department of Human Services (DHS), Office of Behavioral Health (OBH), and the Department's Medicaid Program Division. Special Connections provides treatment and case management services to pregnant and postpartum women with substance use disorders, including justice-involved individuals. Colorado has also created a line item in the state's budget called Offender Behavioral Health Services to address Colorado's continued growth in the demand for community-based services for mentally ill justice-involved individuals. Through funds authorized by the Colorado General Assembly, the Office of Behavioral Health funds M/SUD service programs for justice-involved individuals.⁸⁰

Colorado utilizes a large network of correctional half-way houses to help individuals transitioning from incarceration back into the community. The Colorado Department of Health Care Policy & Financing issued a Policy Statement, "Medicaid Eligibility of Individuals Residing in Community Corrections Facilities (or 'Halfway Houses')." ⁸¹ The Policy Statement advises various stakeholders that Medicaid-covered services are available to residents of Community Corrections facilities who would otherwise be Medicaid eligible, including individuals who reside at the facility involuntarily. Historically, individuals residing in these facilities were thought not to be eligible for Medicaid.

In addition to developing reforms for the incarcerated and reentering populations, Colorado also has focused on "front-end" reforms. The state has established a Law Enforcement Assisted Diversion (LEAD) pre-booking diversion program to divert people away from law enforcement involvement into health care, including SUD care.⁸² The LEAD program connects individuals with case managers who assist with linkage to SUD treatment, housing and other resources. The LEAD program is financed through the state's the Marijuana Tax Cash Fund.

Lastly, as Congress has taken action to respond to the nation's opioid crisis, additional federal dollars have been appropriated to the states to improve access to SUD care. Colorado is utilizing a portion of their 21st Century Cures Act funding for "day of services" that are provided to individuals on the day they are released from incarceration. These funds also support the provision of medication-assisted treatment services in the community, harm reduction training for jail staff, and distribution of naran to prevent overdose deaths as people are leaving jail. Although final information about how these dollars will be allocated in future years is not yet available, it is likely that this infusion of dollars will strengthen access to SUD care, including for justice-involved individuals.

GUIDANCE FOR PRACTITIONERS: IMPROVING ACCESS TO EMPLOYMENT, HOUSING, AND HEALTH CARE, INCLUDING MENTAL HEALTH AND SUBSTANCE USE DISORDER CARE

Generally, there are two essential processes that every justice-involved individual will need to do to prepare to navigate life in the community and that Drug Court Professionals and other professionals in the field can assist them with:

1. completing a criminal record review;
2. gathering evidence of rehabilitation.

Advise clients to get copies of arrest and conviction records. 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. Justice-involved individuals 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 or housing providers in the most accurate and straightforward way possible. They also may need to correct errors, which are common, before the employer or housing provider sees them.

See the Colorado Bureau of Investigation for information about criminal record background screening at <https://www.cbirecordscheck.com/>

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*,” available at <https://lac.org/wp-content/uploads/2016/04/How-to-Gather-Evidence-of-Rehabilitation-3.30.16.pdf>

Refer to the Colorado Department of Regulatory Agencies, *Employment Discrimination* for information that could help your client challenge an employment denial based on certain protected classes and include these adverse actions, among others: discharge, discipline, suspension, harassment, terms and conditions, failure to accommodate and retaliation.

Drug court and other professionals in the field can also support and facilitate successful re-entry of justice-involved individuals by working to connect people to services and/or working to promote policies that will facilitate those connections. Examples include:

- Connecting consumers to employment programs that offer enhanced employment interventions that may include pre-vocational training, social skills training, cognitive training, transitional employment, sheltered workshop, supported employment, or individual job placement and retention support.
- Connecting consumers to transitional and/or permanent housing programs that offer shelter and housing support services that help individuals lead healthy lives and manage their independence.
- Checking the federal HUD [website](#) to identify any special housing programs and funding that are available in Colorado to support justice-involved individuals with mental or substance use disorders, or both.
- Maximizing Medicaid enrollment for individuals at all stages of involvement in the criminal justice system.
- Ensuring coverage of M/SUD services and medications is robust in Medicaid and consistent with the requirements of the federal Mental Health Parity and Addiction Equity Act.
- Working to increase access to coordinated health care (e.g. health homes and other care systems) and emerging health care delivery methods like telehealth that can help ensure individuals receive the treatment and services they need, especially for addiction, mental health, HIV and other chronic conditions. Models of coordinated care already exist that

are designed specifically for people with criminal histories, including the Transition’s Clinic model, which:

- Links with correctional partners to provide continuity of care;
 - Creates easy access to comprehensive primary care;
 - Adopts culturally competent, patient-centered medical services;
 - Involves community health workers with a history of incarceration as part of an integrated medical team; and
 - Has close partnerships with local re-entry organizations to address social determinants of health.⁸³
- Identifying and challenging policies and practices that perpetuate disparities in accessing health care (e.g., race, ethnicity, socioeconomic status, age, sex, disability status, sexual orientation, gender identity, and residential location).
 - Making the consumer, their family, and a peer support specialist members of the team that plans and evaluates the services—whether for employment, housing, health or mental health care—that are provided to the consumer. This communication supports meaningful and influential partnership and fosters integration and coordination of care resulting in high quality services and better outcomes. There will likely be a reduction in hospital admission rates; improved community engagement; social inclusion; reduced stigma; and a sense of hope for individuals.

RESOURCES

See the Office of Behavioral Health (OBH), Colorado’s state agency that facilitates prevention and treatment of MH/SUD. OBH contracts with behavioral health providers, regulates the public behavioral health system, and provides training, technical assistance, evaluation, data analysis, prevention services and administrative support to behavioral health providers and relevant stakeholders.

Contact Colorado’s single state agency (SSA) for substance use, Robert Werthwein, Director of the Colorado Department of Human Services Office of Behavioral Health, for assistance. Director Werthwein can be reached by phone (303-866-7434) or email (robert.werthwein@state.co.us, cc: diana.graham@state.co.us and cristen.bates@state.co.us).

See the Colorado Legislative Information website for detailed information on Colorado laws.

See the Colorado Bureau of Investigation for information about criminal record background screening at <https://www.colorado.gov/pacific/cbi/employment-background-checks>.

See the Office of the Colorado State Public Defender’s *The Consequences of Conviction Sanctions Beyond the Sentence Under Colorado Law* (2014 Ed), available at <http://www.coloradodefenders.us/wp-content/uploads/2015/01/consequences-of-conviction.pdf>.

See the Collateral Consequences Resource Center’s Restoration of Rights Project for a state-by-state analysis of the law and practices in each U.S. jurisdiction relating to restoration of rights and status following arrest or conviction, available at <http://ccresourcecenter.org/restoration/>.

See the National Reentry Resource Center, the National Reentry Technical Assistance Center authorized by the Second Chance Act, for an online state and local re-entry directory that helps people identify service providers in their communities and provides extensive information on numerous topics related to re-entry. The NRRC is available at <https://csgjusticecenter.org/nrrc>.

See the Clean Slate Clearinghouse provides people with criminal records, legal service providers, and state policymakers with information on juvenile and adult criminal record clearance policies in all U.S. states and territories, available at <https://cleanslateclearinghouse.org/>.

See the Work and Gain Employment and Education Skills Program (WAGEES) for a list of community nonprofit organizations that are available to help people on parole in Colorado, available at <https://www.ccjrc.org/wp-content/uploads/2016/02/WAGEES-Community-Reentry-Programs.pdf>.

See the Colorado Department of Local Affairs' Affordable Housing Guide, for a list of housing programs in the state, available at <https://dola.gitbooks.io/affordable-housing-guide/>.

See the 2-1-1 Colorado VisionLink site for a list of programs that provide extended shelter and supportive services primarily for homeless individuals and/or families with the goal of helping them live independently and transition into permanent housing, available at <https://211colorado.communityos.org/zf/taxonomy/detail/id/114349>.

See the Legal Action Center's State Policy and Practice Innovations: Resources to Connect Health and Justice, available at <https://lac.org/wp-content/uploads/2015/03/december-2017-State-Policy-and-Practice-Innovations.pdf> for state-specific resources to improve health and criminal justice outcomes for your clients.

See the Legal Action Center's State Health Care Information For The Criminal Justice System for Colorado's State profile that contains valuable information about the health system and health insurance options, available at <https://lac.org/resources/state-profiles-healthcare-information-for-criminal-justice-system/colorado/>. Here you can learn about: (1) who the health decision-makers are in your state and how to contact them, (2) which health care services/medications are available to newly eligible Medicaid beneficiaries in your state, (3) which health care providers in your state bill Medicaid, and (3) how to connect with mental health and addiction service providers in the state.

See Colorado Department of Health Care Policy and Financing toolkit focusing on helping individuals get enrolled on Medicaid upon their release, "Intersection of Medicaid and Jails Toolkit for Counties."

See Colorado Department of Health Care Policy and Financing, Best Practices for Counties: Medicaid and Criminal Justice Populations, available at <https://lac.org/wp-content/uploads/2015/03/december-2017-State-Policy-and-Practice-Innovations.pdf>.

See Legal Action Center's summary of CMS's 2016 State Health Official letter on facilitating health coverage and access for justice-involved individuals.

¹ LEANN DURAN., MARTHA PLOTKIN, PHOEBE POTTER., & HENRY ROSEN. (2013). INTEGRATED REENTRY AND EMPLOYMENT STRATEGIES. NEW YORK: THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER.

² 23 U.S.C. § 192.

³ SCHMITT, J., & WARNER, K. (2010). *EX-OFFENDERS AND THE LABOR MARKET*. WASHINGTON, DC: CENTER FOR ECONOMIC AND POLICY RESEARCH.

⁴ COLO. REV. STAT. § 24-5-101(2).

⁵ COLO. REV. STAT. § 24-5-101(1)(a).

⁶ COLO. REV. STAT. § 24-5-101(2).

⁷ AM. BAR ASS'N, THE NATIONAL INVENTORY OF THE COLLATERAL CONSEQUENCES OF CONVICTION (NICCC), the online catalogue of collateral consequences is available at <https://niccc.csgjusticecenter.org/>

⁸ *See, e.g.*, 42 U.S.C. § 1320a-7(a) (2006); 42 C.F.R. § 1001.101.

⁹ *See, e.g.*, 42 U.S.C. § 1320a-7(a).

¹⁰ *See, e.g.*, 49 U.S.C. § 44936 (air transportation); 46 U.S.C. § 70105 (port worker TWIC cards).

¹¹ *See, e.g.*, 12 U.S.C. § 1829 (FDIC insured banks); 12 U.S.C. § 5104(b) (2) (mortgage lending).

¹² *See, e.g.*, 18 U.S.C. § 1033(e)(1)(A).

¹³ *See, e.g.*, 12 U.S.C. § 5104(b)(2). More about the SAFE Act is available at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/rmra/safe/cmsl

¹⁴ COLO. REV. STAT. §§ 24-5-101(b); § 27-90-111.

¹⁵ COLO. REV. STAT. § 24-5-101(4).

¹⁶ COLO. REV. STAT. § 24-5-101(3)(a).

¹⁷ COLO. REV. STAT. § 24-5-101(3)(e).

¹⁸ COLO. REV. STAT. § 24-34-104.1(2)(f).

¹⁹ COLO. REV. STAT. § 24-34-104(6)(b)(IX).

²⁰ *Id.*

²¹ JOHN M. NALLY ET AL., *POST-RELEASE RECIDIVISM AND EMPLOYMENT AMONG DIFFERENT TYPES OF RELEASED OFFENDERS: A 5-YEAR FOLLOW-UP STUDY IN THE US*, 9 (Issue 1) INT'L J. CRIM. JUST. SCI. 24 (2014).

²² SOCIETY FOR HUMAN RESOURCE MANAGEMENT, *SHRM SURVEY FINDINGS: BACKGROUND CHECKING—THE USE OF CRIMINAL BACKGROUND CHECKS IN HIRING DECISIONS 2* (2012).

²³ COLO. REV. STAT. §§ 24-72-305.3(2)(c); 24-72-305.3 (VII)(b).

²⁴ *See* U.S. EQUAL EMP'T OPPORTUNITY COMM'N, EEOC ENFORCEMENT GUIDANCE, NO 915.002, (2012),

http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

²⁵ *Id.*, at 18.

²⁶ *See* PRESS RELEASE, THE WHITE HOUSE, OFFICE OF THE PRESS SECRETARY, FACT SHEET: PRESIDENT OBAMA ANNOUNCES NEW ACTIONS TO PROMOTE REHABILITATION AND REINTEGRATION FOR THE FORMERLY- INCARCERATED, (Nov. 2, 2015), <https://www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation>. The Office of Personnel Management issued its proposed rule for implementing “ban the box” on May 2, 2016. *See* U.S. Office of Personnel Management, Recruitment, Selection, and Placement (General) and Suitability, (May 2, 2016), <https://s3.amazonaws.com/public-inspection.federalregister.gov/2016-10063.pdf>

²⁷ 5 CFR § 330.1300.

²⁸ COLO. REV. STAT. § 24-5-101(3).

²⁹ COLO. REV. STAT. § 24-5-101(3)(a).

³⁰ COLO. REV. STAT. § 24-5-101(4).

³¹ *See* HB 18-1418, available at

https://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1418_signed.pdf

³². *See* BETH AVERY, PHIL HERNANDEZ. BAN THE BOX: U.S. CITIES, COUNTIES, AND STATES ADOPT FAIR-CHANCE POLICIES TO ADVANCE EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH PAST CONVICTIONS, 34. NATIONAL EMPLOYMENT LAW PROJECT, (2018). <http://www.nelp.org/content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf>

³³ COLO. REV. STAT. § 8-2-201(b).

³⁴ See HB 10-1023, ch 42, p. 167, § 2 (2010).

³⁵ *Id.*

³⁶ COLO. REV. STAT. § 24-5-101(3)(a).

³⁷ See AMENDMENT 64, USE AND REGULATION OF MARIJUANA, [https://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/\\$FILE/Amendment%2064%20merged.pdf](https://www.leg.state.co.us/LCS/Initiative%20Referendum/1112initrefr.nsf/c63bddd6b9678de787257799006bd391/cfa3bae60c8b4949872579c7006fa7ee/$FILE/Amendment%2064%20merged.pdf)

³⁸ See CLEAN SLATE CLEARING HOUSE at <https://cleanslateclearinghouse.org/>

³⁹ COLO. REV. STAT. § 24-72-702.

⁴⁰ COLO. REV. STAT. § 24-72-702(3).

⁴¹ COLO. REV. STAT. § 24-72-702(4).

⁴² COLO. REV. STAT. § 24-72-701.5.

⁴³ See COLLATERAL CONSEQUENCES RESOURCE CENTER. COLORADO RESTORATION OF RIGHTS, PARDON, EXPUNGEMENT & SEALING, 7-8 (February 1, 2018), <http://ccresourcecenter.org/state-restoration-profiles/colorado-restoration-of-rights-pardon-expungement-sealing/>

⁴⁴ *Id.*

⁴⁵ COLO. REV. STAT. § 18-1.3-103.5.

⁴⁶ COLO. REV. STAT. § 24-72-708(1)(a)(III).

⁴⁷ COLO. REV. STAT. § 24-72-710.

⁴⁸ COLO. REV. STAT. §§ 24-72-708; 24-72-208(a)(II).

⁴⁹ 15 U.S.C. § 1681b (b)(2)(A)(ii).

⁵⁰ 15 U.S.C. § 1681e (b).

⁵¹ 15 U.S.C. § 1681(m).

⁵² COLO. REV. STAT. § 12-14-.3-105.3(1)(e)

⁵³ COLO. REV. STAT. §§ 18-1.3-107; 18-1.3-213; 18-1.3-303.

⁵⁴ See TIMOTHY HUGHES AND DORIS JAMES WILSON, RE-ENTRY TRENDS IN THE UNITED STATES: INMATES RETURNING TO THE COMMUNITY AFTER SERVING TIME IN PRISON. U.S. BUREAU OF JUSTICE STATISTICS (2002) 1, <http://www.bjs.gov/content/pub/pdf/re-entry.pdf>

⁵⁵ 42 U.S.C. § 1437n(f).

⁵⁶ 42 U.S.C. § 13661.

⁵⁷ 42 U.S.C. § 13661(a).

⁵⁸ 42 U.S.C. § 13661(b)(1).

⁵⁹ 42 U.S.C. § 13662(a).

⁶⁰ 42 U.S.C. § 13661(b)(2); 13662(b).

⁶¹ 24 C.F.R. § 960.24; 24 C.F.R. § 982.553(a)(2)(1).

⁶² See U.S. DEP’T HOUSING AND URBAN DEV., *GUIDANCE FOR PUBLIC HOUSING AGENCIES (PHAS) AND OWNERS OF FEDERALLY-ASSISTED HOUSING ON EXCLUDING THE USE OF ARREST RECORDS IN HOUSING DECISIONS*, 2015. Notice PIH 2015-19, <https://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

⁶³ See U.S. DEP’T. OF HOUSING AND URBAN DEV., *OFFICE OF GENERAL COUNSEL GUIDANCE ON APPLICATION OF FAIR HOUSING ACT STANDARDS TO THE USE OF CRIMINAL RECORDS BY PROVIDERS OF HOUSING AND REAL ESTATE-RELATED TRANSACTIONS*, (2016) https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf.

⁶⁴ THE CORPORATION FOR SUPPORTIVE HOUSING HAS THE FUSE (FREQUENT USERS SERVICES ENHANCEMENT) INITIATIVE IN MULTIPLE CITIES TO HELP COMMUNITIES “TO IDENTIFY AND ENGAGE HIGH UTILIZERS OF PUBLIC SYSTEMS AND PLACE THEM INTO SUPPORTIVE HOUSING TO BREAK THE CYCLE OF REPEATED USE OF COSTLY CRISIS SERVICES AND INVOLVEMENT IN SHELTERS AND THE CRIMINAL JUSTICE SYSTEM.” SEE CSH, *NYC FUSE EVALUATION: DECREASING COSTS AND ENDING HOMELESSNESS*, (Mar. 5, 2014), <http://www.csh.org/2014/03/nyc-fuse-evaluation-decreasing-costs-and-ending-homelessness/#sthash.8sBV4i83.dpuf>.

⁶⁵ North Carolina created a Certificate of Relief (CoR) that could be granted to individuals with certain conviction records to use to eliminate collateral consequences of convictions such as mandatory restrictions or disqualifications. The CoR eliminates automatic disqualification for employment, licensing, housing or other restrictions and serves as evidence of rehabilitation. The law also bars any civil action alleging “lack of due care” or negligence for employers who hire or landlords who lease to individuals who have a certificate. See North Carolina General Statutes – Chapter 15A Art. 6, http://www.ncga.state.nc.us/enactedlegislation/statutes/pdf/byarticle/chapter_15a/article_6.pdf.

⁶⁶ San Francisco passed an anti-discrimination law and banned housing providers from asking about criminal history before first determining if applicant qualifies for housing on all other criteria. See SAN FRANCISCO BOARD OF SUPERVISORS, POLICE, ADMINISTRATIVE CODES – CONSIDERING CRIMINAL HISTORY IN EMPLOYMENT AND HOUSING DECISIONS, (Feb. 2, 2014), <http://www.jacksonlewis.com/sites/default/files/media/pnc/5/media.2595.pdf>; or CITY AND COUNTY OF SAN FRANCISCO HUMAN RIGHTS COMMISSION, SAN FRANCISCO POLICE CODE, http://sf-hrc.org/sites/default/files/Rules%20of%20Procedure%20FINAL_0.pdf.

⁶⁷ Several large Public Housing Authorities have modified their policies to reunite formerly incarcerated individuals with their families living in public housing. For example, the New York City Housing Authority (NYCHA) has implemented the Family Re-entry Pilot Program that allows people returning from prison or jail to reunite with their families who live in NYCHA apartment. For more information, see VERA INST. OF JUSTICE, NYCHA FAMILY REENTRY PILOT, <https://www.vera.org/projects/nycha-family-reentry-pilot-reuniting-families-in-new-york-city-public-housing>.

⁶⁸ See Boulder Housing Partners, Housing Choice Program, <https://www.boulderhousing.org/program/housing-choice-program>

⁶⁹ See THE REENTRY INITIATIVE, <https://www.reentryinitiative.org/housing/>

⁷⁰ See The City of Longmont Crime Free Multi Housing, <https://www.longmontcolorado.gov/departments/departments-n-z/public-safety-department/community-programs/crime-free-multi-housing>

⁷¹ DAHLIA LITHWICK, *PRISONS HAVE BECOME AMERICA'S NEW ASYLUMS*, SLATE (Jan. 5th, 2016), http://www.slate.com/articles/news_and_politics/jurisprudence/2016/01/prisons_have_become_warehouses_for_the_mentally_ill.html

⁷² NATIONAL ASSOCIATION OF COUNTIES (JULY 12, 2016). HEALTH CARE COVERAGE AND COUNTY JAILS: SUSPENSION VS. TERMINATION, http://www.naco.org/sites/default/files/documents/Suspension-termination_2015.pdf.

⁷³ ANDREW WILPER, STEFFIE WOOLHANDLER, MARK ALMBERG, *U.S. PRISONERS SICKER THAN BELIEVED AND HAVE POOR ACCESS TO CARE*, PHYSICIANS FOR A NATIONAL HEALTH PROGRAM (Jan. 15, 2009, 4:00 PM), http://www.pnhp.org/news/2009/january/us_prisoners_sicke.php

⁷⁴ *Id.*

⁷⁵ ROBERT DEFINA AND LANCE HANNON, THE IMPACT OF MASS INCARCERATION ON POVERTY, 59 CRIME AND DELINQUENCY 4 (2013), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1348049

⁷⁶ GENERAL ASSEMBLY OF THE STATE OF COLORADO, SENATE BILL 08-006 [http://www.leg.state.co.us/clics/clics2008a/csl.nsf/billcontainers/2D0DDC30036656CE872573680054F114/\\$FILE/006_enr.pdf](http://www.leg.state.co.us/clics/clics2008a/csl.nsf/billcontainers/2D0DDC30036656CE872573680054F114/$FILE/006_enr.pdf)

⁷⁷ See COLORADO DEP'T OF HUMAN SERVICES, <https://www.colorado.gov/pacific/cdhs/behavioral-health>

⁷⁸ COLORADO DEP'T OF HEALTH CARE POLICY AND FINANCING TOOLKIT, "INTERSECTION OF MEDICAID AND JAILS TOOLKIT FOR COUNTIES," available at <https://www.colorado.gov/pacific/sites/default/files/Criminal%20Justice%20Involved%20Populations%20Toolkit%20-%207-27-2016.pdf>

⁷⁹ <https://www.colorado.gov/pacific/sites/default/files/Section%201915%28b%29%20Waiver%20Renewal.pdf>

⁸⁰ See COLORADO DEPARTMENT OF HUMAN SERVICES, OFFENDER BEHAVIORAL HEALTH SERVICES (FORMERLY KNOWN AS SB 97), <https://www.colorado.gov/pacific/cdhs/offender-behavioral-health-services-formerly-known-sb-97-0>

⁸¹ See COLORADO DEP'T OF HEALTH CARE POLICY AND FINANCING, MEDICAID ELIGIBILITY OF INDIVIDUALS RESIDING IN COMMUNITY CORRECTIONS FACILITIES (OR "HALFWAY HOUSES"), (JUNE 1, 2016), <https://www.colorado.gov/pacific/sites/default/files/June%202016%20Medicaid%20Eligibility%20Policy%20for%20Community%20Corrections%20%28Halfway%20Houses%29.pdf>

⁸² See COLORADO DEP'T OF HUMAN SERVICES, LAW ENFORCEMENT ASSISTED DIVERSION (LEAD) PROGRAM, <https://www.colorado.gov/pacific/cdhs/law-enforcement-assisted-diversion-lead-program>

⁸³ See TRANSITIONS CLINIC NETWORK, <http://transitionsclinic.org/>.