

## The Record Expungement Simplification To Offer Relief and Equity (RESTORE) Act of 2021

The RESTORE Act was developed by [DC Justice Lab](#) and Councilmember Christina Henderson. If enacted, it would dramatically simplify the process for sealing or expunging a criminal record (obviating the need to hire an attorney in an ordinary case) and significantly expand the number of people eligible for relief.

This bill was developed in consultation with returning citizens, defense attorneys, prosecutors, and local and national justice reform organizations. It carefully considers the practicalities of litigation and sequestration. It also accounts for due process considerations such as the need for access to exculpatory evidence in related criminal cases.

The result is a transformative piece of legislation that would have a widespread positive impact on the employment and housing prospects of the 1 in 7 individuals currently living with publicly-available criminal records in Washington, D.C. The RESTORE Act is a bold step forward in DC's commitment to welcoming our returning neighbors home and fostering an environment in which they can thrive.

### **Record relief in the District needs an overhaul**

An individual who has been arrested, cited, charged, and/or convicted in the District faces a [uniquely challenging](#) record sealing process. According to the Collateral Consequences Resource Center's [Reintegration Report Card](#), DC's scheme ranks 40th in the nation, placing it among the most restrictive. It uniquely disqualifies people from sealing records of nonconvictions based on convictions in other cases. The complexity of the current law often requires that an individual seek counsel to determine whether their record is eligible for sealing and to prepare a written motion. This onerous process has serious implications for individuals seeking employment and housing and disproportionately impacts Black residents who comprise 86% of people arrested in the District, 92% of people in jail, and 95% of people in prison serving DC Code sentences ([ACLU, 2019](#); [CCE, 2020](#)).

### **What sets the RESTORE Act apart?**

The RESTORE Act is comprehensive, community-informed, and easy to understand. It greatly increases access to record relief by expanding eligible offenses and using plain language, while reducing the burden on courts by automating certain instances of expungement and sealing. In summary, the RESTORE Act:

- Provides clear definitions of **record expungement** and **record sealing**;
- Provides a clear definition of the purposes for which a **request to access or disclose records** may be made;
- Creates a framework for **expungement upon written motion** for non-convictions;
- Facilitates **automatic sealing** for non-convictions;
- Empowers the court, in its discretion, to **seal** records of felony convictions;
- Eliminates **disqualifying convictions** as a barrier to seeking and obtaining relief; and
- Places time limits on the court's determination of motions to seal.

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**Detailed Comparison**

<b>Feature</b>	<b><u>Current Law</u></b>	<b>The RESTORE Act</b>
Decriminalized offenses	Sealing upon motion.	Automatic expungement.
Non-convictions	Sealing upon motion.	Automatic sealing. Expungement upon motion.
Convictions	Eligible misdemeanors (limited by long list of ineligible misdemeanors). One felony offense (failure to appear), Decriminalized or legalized offenses.	All offenses, including felonies, are eligible for sealing, if the court determines it is in the interest of justice to do so.
Disqualification	An arrest or conviction in an unrelated case may disqualify someone from sealing a record, even of a non-conviction. The person must find someone to access their records out-of-state.	No disqualifiers.
Waiting periods	2-10 years for misdemeanor non-convictions. 4-10 years for other non-convictions. 8 years for limited list of eligible convictions.	3 years for crimes of violence. 2 years for convicted offenses punishable by a prison term of more than one year. 1 year for all other convictions.
Time allowed for disposition	Must wait for court to order prosecutor to respond. Prosecutor may request additional time to respond. No limit on time for court to decide the motion.	Automatic expungement within 30 days. Automatic sealing within 30 days. Decisions on motions to expunge or seal within 180 days.
Access to sealed records	Clerk. Prosecutors. Law enforcement. Corrections agencies. Supervision agencies.	Expunged records available to Clerk only. Sealed records available to prosecutors and law enforcement only. Clear guidelines for court to permit access by or disclosure to third parties.