

118TH CONGRESS  
2D SESSION

# S. 5266

To require automatic sealing of certain criminal records, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. CASEY (for himself and Mr. PAUL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To require automatic sealing of certain criminal records, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Slate Act of  
5 2024”.

6 **SEC. 2. SEALING OF CERTAIN RECORDS.**

7 (a) AMENDMENT.—Subchapter A of chapter 227 of  
8 title 18, United States Code, is amended by adding at the  
9 end the following:

1 **“§ 3560. Automatic sealing of certain records**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered individual’ means an in-  
4 dividual who—

5 “(A) is not a sex offender;

6 “(B) has been—

7 “(i) arrested for a Federal offense for  
8 which the individual was not convicted; or

9 “(ii) convicted of an offense under  
10 section 404 of the Controlled Substances  
11 Act (21 U.S.C. 844) or any Federal non-  
12 violent offense involving marijuana;

13 “(C) in the case of a conviction described  
14 in subparagraph (B)(ii), has fulfilled each re-  
15 quirement of the sentence for the offense, in-  
16 cluding—

17 “(i) completing each term of imprison-  
18 ment, probation, or supervised release; and

19 “(ii) satisfying each condition of im-  
20 prisonment, probation, or supervised re-  
21 lease; and

22 “(D) has not been convicted of any offense  
23 related to treason, terrorism, access and trans-  
24 mission of sensitive defense information, or  
25 other national security related convictions;

1           “(2) the term ‘covered nonviolent offense involv-  
2           ing marijuana’ means a nonviolent offense relating  
3           to marijuana that is—

4                   “(A) an offense under the Controlled Sub-  
5                   stances Act (21 U.S.C. 801 et seq.), the Con-  
6                   trolled Substances Import and Export Act (21  
7                   U.S.C. 951 et seq.), or chapter 705 of title 46;  
8                   and

9                   “(B) does not include—

10                           “(i) an offense that includes any con-  
11                           trolled substance other than marijuana;

12                           “(ii) an offense with respect to which  
13                           the court applied a sentencing enhance-  
14                           ment under section 2D1.1(b)(2) of the  
15                           Federal sentencing guidelines (relating to  
16                           the use of violence or the threat or direc-  
17                           tion to use violence); or

18                           “(iii) an offense under—

19                                   “(I) section 1962 of this title;

20                                   “(II) subsection (b)(6), (b)(7), or  
21                                   (d) of section 401 of the Controlled  
22                                   Substances Act (21 U.S.C. 841);

23                                   “(III) section 408, 417, 419(c),  
24                                   or 420 of the Controlled Substances

1 Act (21 U.S.C. 848, 858, 860(c),  
2 861);

3 “(IV) section 418 of the Con-  
4 trolled Substances Act (21 U.S.C.  
5 859), if the person distributing mari-  
6 juana was older than 24 years old at  
7 the time of the offense;

8 “(V) section 1010A of the Con-  
9 trolled Substances Import and Export  
10 Act (21 U.S.C. 960a); or

11 “(VI) an attempt or conspiracy  
12 to commit an offense described in sub-  
13 clauses (I) through (V);

14 “(3) the term ‘marijuana’ has the meaning  
15 given the term in section 102 of the Controlled Sub-  
16 stances Act (21 U.S.C. 802);

17 “(4) the term ‘nonviolent offense’ means an of-  
18 fense that is not—

19 “(A) murder;

20 “(B) voluntary manslaughter;

21 “(C) kidnapping;

22 “(D) aggravated assault;

23 “(E) a forcible sex offense;

24 “(F) robbery;

25 “(G) arson;

1 “(H) extortion;

2 “(I) the use or unlawful possession of—

3 “(i) a firearm, as defined in section  
4 5845(a) of the Internal Revenue Code of  
5 1986; or

6 “(ii) explosive materials, as defined in  
7 section 841(c);

8 “(J) a sex offense, as defined in section  
9 111 of the Sex Offender Registration and Noti-  
10 fication Act (34 U.S.C. 20911);

11 “(K) torture, in violation of section 2340A;

12 “(L) interstate domestic violence, in viola-  
13 tion of section 2261;

14 “(M) an offense under chapter 77; or

15 “(N) an attempt or conspiracy to commit  
16 an offense described in clauses (i) through  
17 (xiii); and

18 “(5) the term ‘sex offender’ has the meaning  
19 given the term in section 111 of the Sex Offender  
20 Registration and Notification Act (34 U.S.C.  
21 20911).

22 “(b) AUTOMATIC SEALING FOR CERTAIN ARRESTS  
23 AND NONVIOLENT OFFENSES.—

24 “(1) IN GENERAL.—At the time of sentencing  
25 of a covered individual for a conviction for an of-

1       fense pursuant to section 404 of the Controlled Sub-  
2       stances Act (21 U.S.C. 844) or any covered non-  
3       violent offense involving marijuana, the court shall  
4       enter an order that each record and portion thereof  
5       that relates to the offense shall be sealed automati-  
6       cally on the date that is 1 year after the covered in-  
7       dividual fulfills each requirement of the sentence, in-  
8       cluding—

9               “(A) completing each term of imprison-  
10              ment, probation, or supervised release; and

11             “(B) satisfying each condition of imprison-  
12              ment, probation, or supervised release.

13             “(2) ACQUITTAL; DETERMINATION NOT TO FILE  
14       CHARGES.—

15             “(A) ACQUITTAL.—Not later than 60 days  
16              after the date on which a covered individual is  
17              acquitted, exonerated, or otherwise subject to a  
18              judgment which did not result in a conviction  
19              for a Federal offense, each record or portion  
20              thereof that relates to the Federal offense shall  
21              be sealed automatically.

22             “(B) DETERMINATION NOT TO FILE  
23       CHARGES.—

24             “(i) IN GENERAL.—If a covered indi-  
25              vidual is arrested for a Federal offense and

1 the Government does not file charges  
2 against the covered individual in relation  
3 to the Federal offense before the date that  
4 is 180 days after the date on which the ar-  
5 rest was made, each record or portion  
6 thereof that relates to the arrest and Fed-  
7 eral offense shall be sealed automatically  
8 on such date.

9 “(ii) UNSEALING FOR FILING OF  
10 CHARGES.—At the request of the Govern-  
11 ment, a court may unseal a record sealed  
12 under clause (i) in order for the Govern-  
13 ment to file charges against the covered in-  
14 dividual in relation to the Federal offense  
15 described in clause (i).

16 “(iii) LIMITATION.—If a record is un-  
17 sealed under clause (ii), the record may  
18 only be resealed in accordance with para-  
19 graph (1) or subparagraph (A) of this  
20 paragraph.

21 “(c) EFFECT OF SEALING ORDER.—

22 “(1) PROTECTION FROM ACCESS.—Except as  
23 provided in paragraph (4), a record that has been  
24 sealed under this section or section 3560A shall not  
25 be accessible to any person.

1           “(2) PROTECTION FROM PERJURY LAWS.—

2                   “(A) IN GENERAL.—Except as provided in  
3           subparagraph (B), an individual whose record  
4           has been sealed pursuant to this section shall  
5           not be required to disclose the existence of or  
6           any information contained in the sealed record  
7           of the individual, and shall not be subject to  
8           prosecution under any civil or criminal provi-  
9           sion of Federal or State law relating to perjury,  
10          false swearing, or making a false statement, in-  
11          cluding under section 1001, 1621, 1622, or  
12          1623, for failing to recite or acknowledge any  
13          information that has been sealed with respect to  
14          the offense, or respond to any inquiry made of  
15          the individual, relating to the protected infor-  
16          mation.

17                   “(B) EXCEPTION.—An individual whose  
18          record has been sealed pursuant to this section  
19          shall disclose information contained in such  
20          record—

21                           “(i) when testifying in court;

22                           “(ii) in the course of questioning by a  
23          law enforcement officer in connection with  
24          a subsequent criminal investigation; or



1           “(iii) in connection with employment  
2           or another authorization described in sub-  
3           clauses (I) through (IV) of paragraph  
4           (4)(A)(ii) that the individual is seeking.

5           “(3) BACKGROUND CHECKS.—Except as pro-  
6           vided in paragraph (4), the existence of a record of  
7           an individual which has been sealed pursuant to this  
8           section, or the information contained therein, shall  
9           not be included in any background check conducted  
10          on such individual.

11          “(4) EXCEPTIONS.—

12           “(A) LAW ENFORCEMENT AND COURT AC-  
13           CESS.—An officer or employee of a law enforce-  
14           ment agency or a court may access a record of  
15           an individual which has been sealed pursuant to  
16           this section and is in the possession of the  
17           agency or court, or another law enforcement  
18           agency or court, solely—

19                   “(i) for investigatory or prosecutorial  
20                   purposes; or

21                   “(ii) for a background check that re-  
22                   lates to—

23                           “(I) employment with a law en-  
24                           forcement agency;

1                   “(II) any position that a Federal  
2 agency designates as a—

3                   “(aa) national security posi-  
4 tion; or

5                   “(bb) high-risk, public trust  
6 position;

7                   “(III) the manufacture, importa-  
8 tion, sale, transfer, possession, or car-  
9 rying of firearms, explosives, or am-  
10 munition; or

11                   “(IV) employment in a position  
12 involving the manufacture, importa-  
13 tion, handling, sale, or transfer of  
14 controlled substances, as that term is  
15 defined in section 102 of the Con-  
16 trolled Substances Act (21 U.S.C.  
17 802), or where the employment would  
18 provide access to such controlled sub-  
19 stances.

20                   “(B) DISCLOSURE.—An officer or em-  
21 ployee of a law enforcement agency or a court  
22 may disclose information contained in a sealed  
23 record only in order to carry out the purposes  
24 described in subparagraph (A).

1       “(d) INDIVIDUAL ACCESS.—Any individual whose  
2 record has been sealed pursuant to this section or section  
3 3560A may access the information contained in the sealed  
4 record of the individual.

5       “(e) PENALTY FOR UNAUTHORIZED DISCLOSURE.—

6           “(1) IN GENERAL.—Whoever knowingly ac-  
7 cesses or discloses information contained in a record  
8 sealed under this section or section 3560A in a man-  
9 ner that is prohibited under this section, shall be  
10 fined under this title, imprisoned for not more than  
11 1 year, or both.

12           “(2) RULE OF CONSTRUCTION.—Nothing in  
13 this subsection prevents a covered individual or an  
14 individual who was the crime victim (as such term  
15 is defined in section 3771(e)) from accessing or dis-  
16 closing information contained in record sealed under  
17 this section or section 3560A.

18       “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion or section 3560A shall abrogate or constrain the au-  
20 thority of a judge or judicial body to vacate a judgment  
21 or sentence.

22       “(g) RULEMAKING.—The Attorney General shall, by  
23 rule, establish a process to ensure that any record in the  
24 possession of a Federal agency required to be sealed under

1 this section is automatically sealed in accordance with this  
2 section.

3       “(h) APPLICABILITY.—This section shall apply to an  
4 arrest that occurred or conviction that was entered before,  
5 on, or after the date of enactment of this section. Not later  
6 than 2 years after the date of enactment of this section,  
7 the Attorney General shall ensure that any record related  
8 to an arrest or conviction that occurred or was entered  
9 prior to the automatic sealing of such a record, which  
10 record is required to be sealed under this section, is so  
11 sealed.

12       “(i) EMPLOYER IMMUNITY FROM LIABILITY.—An  
13 employer who employs or otherwise engages an individual  
14 whose criminal records were sealed pursuant to this sec-  
15 tion shall be immune from liability for any claim arising  
16 out of the misconduct of the individual, if the misconduct  
17 relates to the portion of the criminal records that were  
18 sealed pursuant to this section.

19       “(j) ESTABLISHMENT OF PARTNERSHIPS.—

20               “(1) IN GENERAL.—The Administrative Office  
21 of the United States Courts or the Attorney General  
22 shall enter into a contract with or make grants to  
23 an organization with expertise in creating digital and  
24 technological systems to develop an efficient and ef-  
25 fective process for—

1           “(A) sealing records in accordance with  
2 this section and section 3560A; and

3           “(B) enabling access to sealed records by  
4 Federal and non-Federal law enforcement agen-  
5 cies for the purposes set forth in subsection  
6 (c)(4)(A) of this section.

7 **“§ 3560A. Sealing of certain records upon petition**

8           “(a) DEFINITIONS.—In this section—

9           “(1) the term ‘covered nonviolent offense’  
10 means a Federal criminal offense that is not—

11           “(A) murder;

12           “(B) voluntary manslaughter;

13           “(C) kidnapping;

14           “(D) aggravated assault;

15           “(E) a forcible sex offense;

16           “(F) robbery;

17           “(G) arson;

18           “(H) extortion; or

19           “(I) the use or unlawful possession of—

20           “(i) a firearm, as defined in section  
21 5845(a) of the Internal Revenue Code of  
22 1986; or

23           “(ii) explosive materials, as defined in  
24 section 841(c);

1           “(J) a sex offense, as defined in section  
2           111 of the Sex Offender Registration and Noti-  
3           fication Act (34 U.S.C. 20911);

4           “(K) torture, in violation of section 2340A;

5           “(L) interstate domestic violence, in viola-  
6           tion of section 2261;

7           “(M) an offense under chapter 77; or

8           “(N) an attempt or conspiracy to commit  
9           an offense described in subparagraphs (A)  
10          through (M);

11          “(2) the term ‘eligible individual’ means an in-  
12          dividual who—

13               “(A) has been convicted of a covered non-  
14               violent offense;

15               “(B) has fulfilled each requirement of the  
16               sentence for the covered nonviolent offense, in-  
17               cluding—

18                       “(i) completing each term of imprison-  
19                       ment, probation, or supervised release; and

20                       “(ii) satisfying each condition of im-  
21                       prisonment, probation, or supervised re-  
22                       lease;

23               “(C) has not been convicted of more than  
24               2 felonies that are covered nonviolent offenses,  
25               including any such convictions that have been

1 sealed (except that for purposes of this sub-  
2 paragraph, 2 or more felony convictions that  
3 are covered nonviolent offenses arising out of  
4 the same act, or acts committed at the same  
5 time, shall be treated as one felony conviction);

6 “(D) has not been convicted of any felony  
7 that is not a covered nonviolent offense; and

8 “(E) has not been convicted of any offense  
9 related to treason, terrorism, access and trans-  
10 mission of sensitive defense information, or  
11 other national security related convictions;

12 “(3) the term ‘petitioner’ means an individual  
13 who files a sealing petition;

14 “(4) the term ‘protected information’, with re-  
15 spect to a covered nonviolent offense, means any ref-  
16 erence to—

17 “(A) an arrest, conviction, or sentence of  
18 an individual for the offense;

19 “(B) the institution of criminal pro-  
20 ceedings against an individual for the offense;  
21 or

22 “(C) the result of criminal proceedings de-  
23 scribed in subparagraph (B);

24 “(5) the term ‘sealing hearing’ means a hearing  
25 held under subsection (c)(2); and

1           “(6) the term ‘sealing petition’ means a petition  
2 for a sealing order filed under subsection (b).

3           “(b) RIGHT TO FILE SEALING PETITION.—

4           “(1) IN GENERAL.—On and after the date that  
5 is 1 year after the date on which the eligible indi-  
6 vidual has fulfilled each requirement described in  
7 subsection (a)(2)(B), an eligible individual may file  
8 a petition for a sealing order with respect to a cov-  
9 ered nonviolent offense in a district court of the  
10 United States.

11           “(2) NOTICE OF OPPORTUNITY TO FILE PETI-  
12 TION.—

13           “(A) IN GENERAL.—If an individual is  
14 convicted of a covered nonviolent offense and  
15 will potentially be eligible to file a sealing peti-  
16 tion with respect to the offense upon fulfilling  
17 each requirement of the sentence for the offense  
18 as described in subsection (a)(2)(B), the court  
19 in which the individual is convicted shall, in  
20 writing, inform the individual, on each date de-  
21 scribed in subparagraph (B), of—

22                   “(i) that potential eligibility;

23                   “(ii) the necessary procedures for fil-  
24 ing the sealing petition; and

25                   “(iii) the benefits of sealing a record.



1           “(B) DATES.—The dates described in this  
2           subparagraph are—

3                   “(i) the date on which the individual  
4                   is convicted; and

5                   “(ii) the date on which the individual  
6                   has completed every term of imprisonment,  
7                   probation, or supervised release relating to  
8                   the offense.

9           “(c) PROCEDURES.—

10                   “(1) NOTIFICATION TO PROSECUTOR.—If an in-  
11                   dividual files a petition under subsection (b), the dis-  
12                   trict court in which the petition is filed shall provide  
13                   notice of the petition—

14                           “(A) to the office of the United States at-  
15                           torney that prosecuted the petitioner for the of-  
16                           fense; and

17                           “(B) upon the request of the petitioner, to  
18                           any other individual that the petitioner deter-  
19                           mines may testify as to the—

20                                   “(i) conduct of the petitioner since the  
21                                   date of the offense; or

22                                   “(ii) reasons that the sealing order  
23                                   should be entered.

24                   “(2) NOTIFICATION TO CRIME VICTIMS.—Upon  
25                   receipt of a notification under paragraph (1)(A) by

1 an office of the United States attorney, the office  
2 shall make reasonable efforts to identify any indi-  
3 vidual who was a crime victim (as such term is de-  
4 fined in section 3771) of the offense and provide no-  
5 tice of the petition.

6 “(3) HEARING.—

7 “(A) IN GENERAL.—Not later than 180  
8 days after the date on which an individual files  
9 a sealing petition, the district court shall—

10 “(i) except as provided in subpara-  
11 graph (D), conduct a hearing in accord-  
12 ance with subparagraph (B); and

13 “(ii) determine whether to enter a  
14 sealing order for the individual in accord-  
15 ance with paragraph (4).

16 “(B) OPPORTUNITY TO TESTIFY AND  
17 OFFER EVIDENCE.—

18 “(i) PETITIONER.—The petitioner  
19 may testify or offer evidence at the sealing  
20 hearing in support of sealing.

21 “(ii) PROSECUTOR.—The office of a  
22 United States attorney that receives notice  
23 under paragraph (1)(A) may send a rep-  
24 resentative to testify or offer evidence at

1 the sealing hearing in support of or  
2 against sealing.

3 “(iii) OTHER INDIVIDUALS.—At the  
4 request of a petitioner, the district court in  
5 which the petition is filed shall issue a sub-  
6 poena requiring an individual who receives  
7 notice under paragraph (1)(B) to testify or  
8 offer evidence at the sealing hearing as to  
9 the issues described in clauses (i) and (ii)  
10 of that paragraph.

11 “(C) MAGISTRATE JUDGES.—

12 “(i) IN GENERAL.—A magistrate  
13 judge may preside over a hearing under  
14 this paragraph, and submit to a judge of  
15 the court proposed findings of fact and  
16 recommendations for the disposition, by a  
17 judge of the court, of any sealing petition  
18 filed under this subsection.

19 “(ii) RECOMMENDATIONS.—Not later  
20 than 14 days after being served with a  
21 copy, any party may serve and file written  
22 objections to the proposed findings and  
23 recommendations of the magistrate judge  
24 as provided by rules of court. A judge of  
25 the court shall make a de novo determina-

1           tion of those portions of the report or spec-  
2           ified proposed findings or recommenda-  
3           tions to which objection is made. A judge  
4           of the court may accept, reject, or modify,  
5           in whole or in part, the findings or rec-  
6           ommendations made by the magistrate  
7           judge. The judge may also receive further  
8           evidence or recommit the matter to the  
9           magistrate judge with instructions.

10           “(D) WAIVER OF HEARING.—If the peti-  
11           tioner and the United States attorney that re-  
12           ceives notice under paragraph (1)(A) so agree,  
13           the court shall make a determination under  
14           paragraph (4) without a hearing.

15           “(4) BASIS FOR DECISION.—

16           “(A) IN GENERAL.—In determining wheth-  
17           er to enter a sealing order with respect to pro-  
18           tected information relating to a covered non-  
19           violent offense, the court—

20                   “(i) shall consider—

21                           “(I) the petition and any docu-  
22                           ments in the possession of the court;  
23                           and

1           “(II) all evidence and testimony  
2           presented at the sealing hearing, if  
3           such a hearing is conducted;

4           “(ii) may not consider any non-Fed-  
5           eral crimes of which the petitioner has not  
6           been convicted; and

7           “(iii) shall balance—

8           “(I)(aa) the interest of public  
9           knowledge and safety; and

10           “(bb) the legitimate interest, if  
11           any, of the Government in maintain-  
12           ing the accessibility of the protected  
13           information, including any potential  
14           impact of sealing the protected infor-  
15           mation on Federal licensure, permit,  
16           or employment restrictions; against

17           “(II)(aa) the conduct and dem-  
18           onstrated desire of the petitioner to be  
19           rehabilitated and positively contribute  
20           to the community; and

21           “(bb) the interest of the peti-  
22           tioner in having the protected infor-  
23           mation sealed, including the harm of  
24           the protected information to the abil-

1                   ity of the petitioner to secure and  
2                   maintain employment.

3                   “(B) BURDEN ON GOVERNMENT.—The  
4                   burden shall be on the Government to show  
5                   that the interests under subclause (I) of sub-  
6                   paragraph (A)(iii) outweigh the interests of the  
7                   petitioner under subclause (II) of that subpara-  
8                   graph.

9                   “(5) WAITING PERIOD AFTER DENIAL.—If the  
10                  district court denies a sealing petition, the petitioner  
11                  may not file a new sealing petition with respect to  
12                  the same offense until the date that is 2 years after  
13                  the date of the denial.

14                  “(6) UNIVERSAL FORM.—The Director of the  
15                  Administrative Office of the United States Courts  
16                  shall create a universal form, available over the  
17                  internet and in paper form, that an individual may  
18                  use to file a sealing petition.

19                  “(7) FEE WAIVER.—The Director of the Ad-  
20                  ministrative Office of the United States Courts shall  
21                  by regulation establish a minimally burdensome  
22                  process under which indigent petitioners may obtain  
23                  a waiver of any fee for filing a sealing petition.

1           “(8) EFFECT OF SEALING.—Subsections (c)  
2           through (e) of section 3560 shall apply to any record  
3           that is sealed under this section.

4           “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
5           tion may be construed to require a covered individual (as  
6           such term is defined in section 3560) to submit a sealing  
7           petition with respect to records required to be automati-  
8           cally sealed under section 3560.

9           “(e) REPORTING.—Not later than 2 years after the  
10          date of enactment of this section, and each year there-  
11          after, each district court of the United States shall issue  
12          a public report that—

13                 “(1) describes—

14                         “(A) the number of sealing petitions grant-  
15                         ed and denied under this section; and

16                         “(B) the number of instances in which the  
17                         office of a United States attorney supported or  
18                         opposed a sealing petition;

19                 “(2) includes any supporting data that the  
20                 court determines relevant and that does not name  
21                 any petitioner; and

22                 “(3) disaggregates all relevant data by race,  
23                 ethnicity, gender, and the nature of the offense.

24           “(f) EMPLOYER IMMUNITY FROM LIABILITY.—An  
25          employer who employs or otherwise engages an individual

1 whose criminal records were sealed pursuant to this sec-  
2 tion shall be immune from liability for any claim arising  
3 out of the misconduct of the individual, if the misconduct  
4 relates to the portion of the criminal records that were  
5 sealed pursuant to this section.”.

6 (b) TABLE OF SECTIONS.—The table of sections for  
7 subchapter A of chapter 227 of title 18, United States  
8 Code, is amended by inserting after the item relating to  
9 section 3559 the following:

“3560. Automatic sealing of certain records.

“3560A. Sealing of certain records upon petition.”.

