



Legalization States' Approaches to Expungement and Release

Every state that legalizes cannabis should also expunge the scarlet letter of prior cannabis arrests and convictions. This should be done automatically, without requiring the individual to take any action or pay a fee. Legalization states should also release individuals from cannabis sentences, including incarceration, parole or probation, or outstanding fines. Cannabis prohibition was borne of racism and continues to be enforced in a staggeringly unequal manner, with a 2020 ACLU review of the data finding Black individuals more than 3.6 times as likely to be arrested for possession as white individuals, despite similar use rates.

Conviction records make it difficult to get jobs, professional licensing, housing, and an education and trigger hundreds of collateral consequences. In addition to the need to stop stigmatizing individuals for conduct that is becoming legal, there is a moral imperative to wipe out convictions that reflect biased enforcement.

Although the earlier legalization states did not initially have expungement in their laws, several have passed expungement laws since. Many of the states limit relief to conduct that was legalized (typically possession and cultivation of a modest amount of cannabis), but some include sales and larger quantities.

Here is a round-up of what cannabis-specific measures legalization states have taken to expunge and seal past convictions and to release individuals from sentences.

State	Legalization Year	Cannabis Expungement, Sealing, or Release? ¹
Alaska	2014	None. Sealing bills passed either the House or Senate but died in the other chamber in 2018, 2022, and 2023.
Arizona	2020	The legalization law allows expungement for possession of up to 2.5 ounces of cannabis and for cultivation of up to six plants. On June 1, 2023, an Arizona Court of Appeals ruled some sales-related convictions also qualify. Prosecutors and the Attorney General can file, and in some cases have filed expungement motions on behalf of individuals.
California	2016	Prop. 64 included expungement and/or resentencing for penalties that were reduced or eliminated by the law. Early release is available if it would not pose an unreasonable risk. In 2018, then-Gov. Brown signed a bill making expungement automatic. A 2022 law set deadlines for the automatic expungement/sealing of records. California also enacted a broad law in 2022 to seal most old records after four years, absent additional convictions.

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Colorado	2012	In 2017, lawmakers enacted a law for expungement of prior misdemeanor convictions. In 2020, lawmakers passed a bill allowing for mass pardons for possession of up to two ounces of cannabis, which the governor subsequently issued. Also, a 2022 Clean Slate law includes petition-based sealing for many drug misdemeanors and felonies, with waiting periods. They become automatic in 2024. Eligibility is narrowed by several restrictions, and many with prior arrests were excluded.
Connecticut	2021	The state's legalization law provided that beginning July 1, 2022, individuals can petition for erasure of prior convictions for possession, drug paraphernalia, and sale and manufacture of four or fewer ounces or six or fewer plants. If the petition is in order, it must be granted. No fee may be charged. Beginning January 1, 2023, provides for automatic erasures of convictions from January 1, 2000 through September 15, 2015 for possession of fewer than four ounces. Any person whose record has been erased can represent that the arrest or conviction did not occur.
Delaware	2023	2018's SB 197 allowed individuals with a single conviction for up to an ounce of cannabis to clear their record. 2019's SB 37 allowed a single cannabis misdemeanor to be expunged after five years and a single cannabis felony to be expunged after seven years. 2021's Clean Slate laws make all misdemeanor cannabis possession convictions eligible for mandatory expungement. It also allows drug felonies to be eligible for mandatory expungement after 10 years. Starting in mid-2024, the process becomes automatic for those offenses.
D.C.	2014	Individuals with records for legalized and decriminalized conduct can file to have them sealed.
Illinois	2019	Automatic expungement for up to 30 grams, via the governor's clemency process. For amounts of 30-500 grams, the state's attorney or the individual can petition the court to vacate the conviction. Gov. Pritzker issued pardons for more than 20,000 convictions, and almost 500,000 non-conviction records have been expunged.
Maine	2016	No. Bills to expunge low-level cannabis convictions have been proposed but not enacted.
Maryland	2022	Provides automatic expungement (by July 2024) for all cases where possession of cannabis was the only charge in the case and the charge was issued before legalization. Allows for individuals incarcerated for cannabis possession to petition for release/resentencing and provides that relief shall be granted unless they are serving a concurrent or consecutive sentence for another crime.

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Massachusetts	2016	Under a law passed in 2018, individuals may be eligible to have their past records for legalized conduct (low-level possession and cultivation) sealed. However, many state residents have struggled to clear their records.
Michigan	2018	<p>Under a 2020 law, anyone with a conviction for a misdemeanor or local marijuana offense for conduct that is no longer a crime can petition for the court to "set aside" the convictions. There is a rebuttable presumption that any conviction for a misdemeanor marijuana offense would be legal post-Dec. 6, 2018, and that the petition should be granted. They are not public records, but state police keep a non-public record.</p> <p>In addition, under a Clean Slate law, after a seven-year wait, an unlimited number of low-level misdemeanors, and up to four more serious misdemeanor convictions, can be set aside (marijuana or not), along with and up to two non-violent felonies (excluding certain offenses) can be set-aside (marijuana-related or otherwise). Some are automatic, some are by petition. Clean Slate requires no pending charges and no convictions during the waiting period.</p> <p>Resentencing is also allowed if a set-aside marijuana conviction was part of the reason for a sentence.</p>
Minnesota	2023	The law includes automatic expungement for low-level cannabis offenses. It reduced penalties for numerous sales offenses. A new Cannabis Expungement Board will determine if cannabis convictions are for legalized or downgraded offenses, and — if so — if felonies should be vacated, charges should be dismissed, and records should be expunged, or if the person should be resentenced to a lesser offense.
Missouri	2022	<p>Amendment 3 directed courts in Missouri to issue and process expungements for misdemeanor marijuana offenses that are no longer crimes within six months — by June 8, 2023 for misdemeanors and Dec. 8, 2023 for felonies. As of May 2023, more than 44,000 cases were expunged, but the state was not meeting that deadline.</p> <p>Also, those serving sentences for legalized offenses (up to three pounds, with exceptions) can petition for vacatur and release which will be granted "absent good cause for denial."</p>
Montana	2020	Cannabis-related conduct that is no longer criminal can be expunged or be eligible for resentencing.

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Nevada	2016	<p>In 2019, then-Gov. Steve Sisolak signed a bill that allows individuals to have their past convictions sealed if the conduct — such as marijuana possession — has been legalized or decriminalized. In June 2020, the Nevada State Board of Pardons Commissioners passed a resolution, recommended by the governor, to summarily pardon those convicted of possession of one ounce or less of marijuana from January 1986 to January 2017 in Nevada, covering more than 15,000 people. Convictions can be pardoned upon application.</p>
New Jersey	2020	<p>A 2019 law directed the creation of an automatic system to seal records for several cannabis offenses, including manufacture, possession, and sale of up to an ounce. A 2021 law (A.21) also provided for automatic expungement, along with dismissal of pending charges for possession and distribution. Convictions for unlawful distribution, possession, being under the influence, and possession of drug paraphernalia are eligible for no-cost, post-conviction relief. Prior sentences, convictions, or court order settlements imposed for possession and distribution are deemed to not have occurred.</p> <p>Persons incarcerated, on probation, parole, or other forms of community supervision may move to have their sentences reviewed by the court at no charge.</p> <p>Possession and distribution charges pending when the law took effect were dismissed.</p>
New Mexico	2021	<p>A companion law to legalization (SB 2) sets up a system for reviewing and expunging cannabis convictions for conduct that was legalized or downgraded. In 2023, the law was amended to limit automatic expungement to stand-alone cannabis convictions, without other charges.</p> <p>In 2023, a new law made the expungement process for prior cannabis convictions more efficient. It allows people to verify the status of their expungement and request expedited processing for charges that have yet to be handled by the courts.</p> <p>The law also allows for post-conviction relief for those serving sentences for conduct that was legalized or downgraded.</p>

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New York	2021	<p>A 2019 law, before legalization, provided for automatic vacating of convictions for possession of up to two ounces. The legalization law expanded the list to include misdemeanor sales and possession of greater amounts. The state’s legalization law provided that legalized conduct is automatically expunged by Spring 2023. Other offenses can be expunged by petition.</p> <p>Officials say 107,633 convictions were expunged per the legalization law and 202,189 under a 2019 law. However, the New York Times reported that expungement is proceeding more slowly in felony cases — largely due to a typo — and cases with multiple charges.</p>
Ohio	2023	<p>The 2023 initiative provided 36% of excise tax funding for a social equity and jobs program that includes finding and study of “criminal justice reform including bail, parole, sentencing reform, expungement and sealing of records, legal aid, and community policing related to marijuana.”</p> <p>Separate legislative action will be needed to expand expungement. On Dec. 6, 2023, the Ohio Senate passed a bill (HB 86) that in many ways undermined the voter initiative, but that also included limited, petition-based expungement.</p>
Oregon	2014	<p>In 2015, Oregon lawmakers expanded when expungement is available for marijuana convictions and included even some past felony convictions. To qualify, three years must have passed post-conviction, among other limits. In 2022, then-Gov. Kate Brown pardoned 45,000 individuals for pre-legalization cannabis possession.</p>
Rhode Island	2022	<p>The state’s legalization law establishes a process for individuals to expunge prior misdemeanor or felony convictions for cannabis possession by July 1, 2024. In the summer of 2023, the Providence Journal reported the Rhode Island courts completed their first round of automatic expungements for past convictions involving cannabis possession. Over 23,000 cases have been cleared.</p>
Vermont	2018/2020	<p>A companion law provided for automatic expungement for criminal records for two ounces of cannabis, 10 grams of hashish, four mature plants, and eight immature plants by January 1, 2022. If someone inquires about an expunged record, the entity responds, “NO RECORD EXISTS.”</p> <p>Petition-based expungement and sealing is available for additional offenses if conditions (including a waiting period) have been met.</p>
Virginia	2021	<p>Automatically shields from public inspection records of misdemeanor cannabis convictions.</p>

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Washington	2012	Gov. Inslee signed a bill in 2019 that allows any person who was convicted of a misdemeanor marijuana offense when they were 21 or older to apply for and be granted expungement. He also issued pardons for individuals convicted of simple possession between 1998 and 2012.

[1] Additional details, along with information on expungement in states that have not legalized, available at: <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-marijuana-legalization-expungement>