



## **Policy Proposal: Enforce Private Sector Compliance with Criminal Record Expungement Orders**

**Sarah Esther Lageson**, Rutgers University-Newark

### **Policy Challenge: There is No Enforcement Mechanism for Removal of Criminal Records from Third-Party Websites**

Criminal record expungement and record sealing are increasingly offered by state governments for people to clear long ago convictions or dismissals that never led to a criminal conviction. However, these legal actions only impact governmental versions of records and do not address the enormous availability of records in third party background checks or on privately maintained websites. Currently, people who receive an expungement must independently serve their expungement petition order to individual background check vendors, which can be a difficult or nearly impossible task, especially when there is no enforcement mechanism to compel websites to comply with an expungement order.

### **Policy Solution: States Should Support Citizens with Procedural Guidance and an Enforcement Mechanism for Third-Party Record Removal**

States should help carry this burden by implementing two specific policies. The first would provide a template and guidance for individuals seeking to have their online records removed, while the second provides an enforcement mechanism.

First, states should offer individuals a downloadable version of their expungement order and an accompanying letter from the state Attorney General that mandates Consumer Reporting Agencies (CRA's) online public records websites update their records to reflect the expungement. States should maintain and make available a comprehensive list of CRA's and background check vendors that should be notified and update this directory regularly. Users should then have the ability to serve their order to a large number of websites and CRA's at one time, using language specified by their state.

States should also impose a fine on Consumer Reporting Agencies, online background check services, and private websites that do not comply with these expungement orders within 10 days of notification. Individuals should not have to pay a civil action fee to initiate this order. Fees that are collected by this policy should be directed toward the division within the Attorney General's office charged with actively maintaining contact information for CRA's and private websites and responsible for responding to inquiries from the public regarding this matter.